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SPECIAL STATUTES AND PROVISIONS OF CHARTERS REGULATING SCHOOL SYSTEMS IN THE SEVERAL CITIES OF NEW YORK STATE

COMPILED BY

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Assistant Commissioner for Elementary Education

216-28

ALBANY

THE UNIVERSITY OF THE STATE OF NEW YORK

1915

THE UNIVERSITY OF THE STATE OF NEW YORK

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FROM THE TENTH ANNUAL REPORT OF THE STATE EDUCATION DEPARTMENT

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SPECIAL STATUTES AND PROVISIONS OF CHARTERS REGULATING SCHOOL SYSTEMS IN THE SEVERAL CITIES OF NEW YORK STATE

ALBANY

Chapter 182, Laws of 1898

An act for the government of cities of the second class

ARTICLE VII

DEPARTMENT OF PUBLIC INSTRUCTION

(This article applies only to the cities of Albany and Troy.)

Section 240 There shall be a board of education, composed of three members, to be called commissioners of education, who shall be appointed as hereinafter provided, which board shall be the head of the department of public instruction. They must have been electors of the city for a period of at least five years immediately preceding the date of appointment. Within ten days after the passage of this act, the mayor shall appoint one commissioner to serve until February 1, 1904, one to serve until February 1, 1906, and one to serve until February 1, 1908; and thereafter, at the expiration of the term of any commissioner, the mayor shall appoint his successor for the term of six years, which shall be the term of office of every commissioner so appointed. In the case of a vacancy in the office of commissioner, the mayor shall fill the vacancy by the appointment of a commissioner for the remainder of the term. The commissioners shall serve without pay. (*As amended by L. 1902, ch. 560.*)

(Sections 241-52 were repealed by L. 1899, ch. 581; new sections 241-47 were added by L. 1902, ch. 560.)

§ 241 The board shall appoint one of its members president, who shall exercise all the powers usually incident to such office. It shall also appoint a suitable person other than a member thereof, superintendent of schools in the city, who shall exercise the powers and discharge the duties hereinafter defined, and shall be allowed such compensation for his services as the board of estimate and apportionment may at any time determine.

It shall also appoint from time to time such other employees including teachers and attendance officers as the school system may require; the amount of their compensation shall be fixed by the board of estimate and apportionment. It has the care, custody and safekeeping of all school property, real and personal; and shall make rules and regulations for the government of the schools and its employees except as hereinafter provided; prescribe courses of study and textbooks; supply the requisite textbooks and stationery for the use of indigent pupils; provide the several schools with the necessary school apparatus, maps and music books, the expense thereof to be defrayed out of the school moneys of the city. No member of the board shall be eligible to appointment or employment by the board. (*As added by L. 1902, ch. 560.*)

§ 242 The board has all the powers and is charged with all the duties of commissioners of common schools, and of trustees of the several school dis-

tricts in this State, under the general statutes relating to common schools, so far as such powers and duties can be made applicable to the schools herein provided for and are not inconsistent with the provisions of this act. (*As added by L. 1902, ch. 560.*)

§ 243 The superintendent of schools shall hold office during the pleasure of the board. Any person may prefer charges of incompetency, maladministration or misconduct in office against the superintendent, and thereupon the board shall proceed to hear the charges, and in case the same shall be sustained by the affirmative votes of a majority thereof the superintendent shall be dismissed from his office. (*As added by L. 1902, ch. 560.*)

§ 244 The superintendent has power and it is his duty to see that all the rules and regulations of the board are complied with by the principals and teachers; to determine the different grades of study which shall be pursued in the various departments of the several schools; to transfer teachers from one school to another, or from one grade to another, to suspend any teacher temporarily for cause, provided, however, that the reason for suspension shall be immediately transmitted to the board in writing; to transfer pupils from one school to another; to prescribe rules and regulations for the admission, examination and promotion of pupils; and he shall have the charge of the school libraries. (*As added by L. 1902, ch. 560.*)

§ 245 All assistant teachers shall be appointed for a probationary period of one year, at the expiration of which term, unless satisfactory evidence of incompetency is submitted by the superintendent, the probationer may be elected by the board. Thereafter such teacher shall hold the position during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of a majority of the board. All probationary appointments shall be made from the head of a merit list, upon which the names of all eligible candidates for appointment as assistant teachers shall appear in the order of their rank in scholarship and qualifications for teaching; and it shall be the duty of the board to prescribe by rules not inconsistent with the laws of the State the means of determining such rank in scholarship and qualifications. All principals shall hold their positions during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of at least a majority of the board. (*As added by L. 1902, ch. 560.*)

§ 246 Whenever in the opinion of the board any repairs are needed to the public school buildings in the city, it shall call upon the city engineer to make such repairs. It shall recommend to the common council, when in its opinion the public interests require, the sale of any schoolhouse, the purchase or lease of any land or building for a schoolhouse, and when authorized thereto by an ordinance of the common council, the board of contract and supply may make such sale, purchase or lease in the manner in this act provided; and it may recommend to the common council the erection of any school building; and when authorized thereto by an ordinance of the common council, the board of contract and supply may erect such buildings in the manner and upon the conditions prescribed in this act. (*As added by L. 1902, ch. 560.*)

§ 247 All public money apportioned or appropriated to or for the city, or to or for any of the school districts therein, or for the school libraries, shall be paid by the proper officers to the treasurer, and in the accounts kept by him shall be credited to the department of public instruction and paid out by him upon bills properly allowed and audited in the same manner as obtains in the case of other bills against the city. (*As added by L. 1902, ch. 560.*)

Chapter 414, Laws of 1907

An act to establish a retirement fund for teachers, principals and supervisors of the public schools in the city of Albany, and to regulate the collection, management and disbursement thereof

Section 1 The word teacher as used in this act shall be deemed to include the principals, supervisors and superintendent of schools, regularly employed by the board of education of the city of Albany. (*As amended by L. 1910, ch. 451.*)

§ 2 The mayor, the president of the board of education and the comptroller shall constitute a board of trustees which shall have the general care and management of the public school teachers retirement fund created by this act.

§ 3 There is hereby established in the city of Albany a public school teachers retirement fund, which shall consist of the following moneys, with interest or income therefrom, as follows:

1 Contributions of one per centum of the respective salaries of teachers in the employ of the city of Albany, at the time this act shall take effect, who shall become entitled to the benefit of the fund in the manner provided in section 7 hereof, and contributions of one per centum of the respective salaries of all teachers who shall enter the employ of said city after this act shall take effect, which contributions shall be deducted from said salaries in the manner herein-after provided.

2 All donations, legacies, gifts and bequests which shall be made to such fund, and all moneys which shall be obtained from other sources or by any other lawful means devised for the increase of such fund by such board of trustees or by the Albany Teachers Association.

3 Five per centum of the excise money which the city of Albany shall receive by virtue of the provisions of the liquor tax law, to be paid into such fund and duly credited thereto by the proper officials of said city. (*As amended by L. 1910, ch. 451.*)

§ 4 The comptroller of the city of Albany shall be the custodian of the moneys of such retirement fund, and shall invest for the benefit of the fund all such moneys not necessary for the payment of annuities. Such investment shall only be made in securities in which the savings banks are authorized by law to invest. He shall report in detail to the board of trustees of such fund annually in the month of January the condition of the fund and the items of receipts and disbursements on account of the same during the year ending on the 31st day of December preceding. On and after January 1, 1908, he shall make quarterly payments from such fund and the income thereof of annuities granted in pur-

suance of this act to such persons as the board of trustees shall certify to be entitled to receive the same.

§ 5 On and after January 1, 1908, any teacher entitled to participate in this fund as herein provided who shall have taught in the public schools of the city of Albany for thirty years or more may, at his or her own request or upon the request of the board of education retire from service and become an annuitant under this act, and shall thereafter receive from the retirement fund an annuity, payable quarterly, of a sum equal to fifty per centum of his or her average salary during the last five years of his or her teaching service in said city, except that no annuity shall be more than six hundred dollars annually, and provided that said teacher retiring to become an annuitant under this act shall have paid to the fund a sum equal to thirty per centum of his average salary for the last five years of teaching service. Any such teacher who shall have taught twenty, but less than thirty years, and is either mentally or physically incapacitated for the performance of duty may, with the consent, or upon the request of the board of education, retire from service and become an annuitant under this act, and shall thereafter receive from the retirement fund an annuity, payable quarterly, of as many thirtieths of the full annuity for thirty years as said teacher has taught years, provided that said teacher shall have paid to the fund a sum equal to as many per centum of his average salary for the last five years as said teacher has taught years. The comptroller shall receive and shall pay into the fund all moneys contributed by teachers in compliance with the provisions of this section to become annuitants.

§ 6 At the request of any teacher who shall retire or be retired and who is unable to pay in advance the sum required by section 5 before he is entitled to receive an annuity, the comptroller shall withhold the annuity until the amount of the assessment paid into the retirement fund and the accumulation of the annuity equal the sum required to be paid into the fund; provided, however, that such assessment be paid within one year after retirement of any teacher.

§ 7 Any teacher in the public schools of the city of Albany at the time this act takes effect may file with the board of education of such city and the board of trustees of the retirement fund created by this act, a certificate stating that such person desires to avail himself or herself of the benefits of this act and is willing to contribute to such fund from his or her salary, annually, an amount equal to one per centum thereof, such certificate to be so filed before January 1, 1911, and thereupon such person shall become entitled to the benefits of this act when he or she shall have paid into such fund the amount required to entitle him or her to an annuity thereunder and shall have taught for the period of time required to entitle him or her to an annuity. The board of education, when making up payrolls, shall, after this act takes effect, deduct for the period covered by such payrolls one per centum of the salary of each teacher who has filed such certificate and of each teacher entering the employ of said city after this act takes effect, and such payroll shall state, opposite the name of such teacher, the amount of deduction. Such payroll shall also state the amount deducted from the

salary of each teacher on account of absences from duty during such period. The board of education shall issue a certificate to the treasurer at the time each payroll is made, and such certificates shall accompany the payrolls and shall show the total amount of deductions by the assessment of one per centum of salary, and also the total amount of deductions from the salaries of teachers for absences from duty and also the actual extra expense to the city of a substitute for such teacher during such absence, and such deductions of one per centum of the salaries of teachers together with that part of the deductions from salaries of teachers for absences from duty which be left after the actual extra expense to the city, of substitutes for such teachers, has been subtracted from such deductions, shall be paid into the retirement fund and duly credited thereto by the city comptroller. (*As amended by L. 1910, ch. 451.*)

§ 8 If the moneys of the retirement fund at the disposal of the comptroller be found at any time inadequate to carry out the provisions of this act, he shall distribute such moneys pro rata to the persons entitled to participate in such fund, and such distribution shall be in full of all annuities then due.

§ 9 Whenever a teacher is retired by the board of education and granted an annuity pursuant to this act, the board shall certify such fact to the comptroller stating the name of such teacher and the amount of annuity to which he is entitled and the day when the payment of such annuity shall begin.

§ 10 The board of trustees of such fund shall make all needed rules to carry out the provisions of this act.

§ 11 Annuities payable under the provisions of this act shall be calculated only from and after January 1, 1908.

AMSTERDAM

Chapter 242, Laws of 1911

An act to amend, consolidate and revise the several acts relative to the city of Amsterdam

TITLE X

THE SCHOOL DISTRICT

Section 116 **City and school district.** All the territory included within the boundaries of the city of Amsterdam shall constitute a separate school district within this State, and shall be designated as "The school district of the city of Amsterdam." It may bear such other or additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred by law or other State authority upon school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities, except as otherwise hereinafter prescribed.

§ 117 **Board of education.** The affairs of said school district of the city of Amsterdam shall be managed by a board composed of one member to be elected from each ward of said city, and two members to be elected from the city at large, which board shall be a body corporate and shall be known and designated as the "Board of Education of the City of Amsterdam." The two members from the city at large shall not be residents of the same ward in said city. Said board shall possess all the powers conferred and discharge all the duties imposed by this act or by any general law of this State relating to school districts in cities or relating to the boards of education of such districts, and not inconsistent with the provisions of this act.

§ 118 **Title to school property.** The board of education shall have the power, subject to the provisions of this act, to purchase, take, lease, hold or improve any real or personal estate for the support and maintenance of public schools or for any purpose of education in said city in trust, however, for the school district of the city. It may also take by gift, grant, bequest or devise and hold any real or personal estate in trust for any purpose of education or art, or for the purchase, support or maintenance of public libraries in said city upon such terms as may be prescribed by the donor or donors and accepted by said board of education, and it may execute any trust for any purpose aforesaid and provide for the proper execution thereof.

§ 119 **School elections.** The annual election for school officers in said city shall be held on the second Tuesday of September in each year, and there shall be elected each year at such election members of the board of education to succeed those members whose terms of office shall expire during said year and such other members as may be necessary to fill vacancies that may have occurred

during the preceding year for the unexpired term of any member whose office shall have become vacant. Public notice of every annual or tax election held under this act shall be given by said board of education of the city of Amsterdam, by notice, signed by its president and clerk, which notice shall be published in the official newspapers of said city, at least once in each week for three consecutive weeks immediately preceding such election. The board of education shall, each year, designate at least three polling places, in as many separate wards, at which such annual election shall be held, and the particular wards for which each polling place shall serve, and the same shall be set forth in said notice, as well as the officers to be elected thereat, together with the terms for which they are to serve, respectively. The clerk of the board of education shall, each year, and at least ten days before the date of such annual election, notify the inspectors of election of the election districts in which each of said polling places are situated, by notice mailed to each of them in the post office of said city, of every such election, and the polling places designated by said board. The inspectors in each of said election districts shall preside and conduct said annual election, at the places of their respective districts, designated as aforesaid, and their powers and duties in respect thereto shall be determined and regulated by the provisions relating to the holding of the general city elections for city officers, except as modified by this act. All elections shall be opened at each polling place at three o'clock in the afternoon, and shall be kept open without intermission or adjournment until seven o'clock in the afternoon, when the same shall be finally closed, and the inspectors shall forthwith without intermission or adjournment, canvass all votes cast, declare and make a statement of the result, as required in the general city elections, and shall forthwith file such statements of the result with the clerk of the board of education of said city. Every inhabitant of said city qualified to vote for school officers, under the general school laws of this State shall then and there be entitled to vote at such election; but no such inhabitant shall vote at any polling place, except that designated for the ward in which he or she may reside at the time of offering such vote, and shall have resided for at least thirty days immediately prior to such election, and except at the polling places designated by said board, at which an election shall be held, for the election of a trustee or trustees, by the city at large, and at the polling places designated by said board at which the electors will vote for or against the "school tax" as provided in section 123 herein.

§ 120 **Organization of board.** On the day following such school election the board of education of said city shall convene at eight o'clock in the evening, at its regular place of meeting, and all the certificates of the votes cast at each of the polling places designated as aforesaid, shall be produced, and said board of education shall forthwith proceed to canvass such certificates, declare the result thereof, and make a certificate in writing of all those who were duly elected at said election, and shall immediately file a duplicate thereof, signed by the president and clerk, in the office of the city clerk. The persons so elected shall thereupon take the constitutional oath of office, and the board of education of the city of Amsterdam, as constituted for the preceding year, shall be dis-

solved and the board of education composed of the persons so declared elected and those whose terms of office shall not have expired shall then organize, by electing one of their number president, and a resident of the city, not of their number, clerk of said board, who shall hold office during the pleasure of said board and whose compensation shall be fixed by such board. The clerk shall keep an accurate record of the proceedings of said board, and shall perform such other duties as the board may prescribe. A majority of the board of trustees of said board of education shall constitute a quorum for the transaction of business. The members of said board shall receive no compensation, directly or indirectly, for their services.

§ 121 **General powers and duties of board of education.** Subject to the provisions of this act, the board of education of the city of Amsterdam shall have power and it shall be its duty:

a To provide a place for its meetings and adopt such rules and regulations for the conduct of its business as it may deem advisable.

b To establish and organize in said city such schools, and night schools, as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

c To establish and maintain, whenever it shall be deemed expedient so to do, within the limits of the school district hereby created, a high school, to which graduates from the said schools of said district shall be admitted for a course of instruction to be regulated by the board of education.

d To alter, improve and repair schoolhouses and appurtenances, hire rooms for school purposes as may be deemed advisable, and when authorized by a vote of the qualified voters of the school district, to sell and dispose of, or purchase, schoolhouses, lots or sites.

e To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expense attending the same.

f To insure the schoolhouse or houses and their furniture, apparatus and appendages, and the school library, in some company or companies created by or under the laws of this State, and to comply with the conditions of the policy and policies, and raise the sum or sums paid for the premium or premiums by tax in like manner as other moneys are raised for school purposes.

g To have the custody and safekeeping of the school buildings, lots, out-houses, books, furniture and appendages, and to see that the ordinances and by-laws of said city in relation thereto are enforced, and any violation thereof punished.

h To contract with and employ a superintendent of instruction for said city, and fix his compensation, to contract with and employ all necessary teachers for the schools of said city, and at pleasure to remove them or any of them, or the superintendent of instruction, under such rules and regulations as may be established by law, or by the Department of Public Instruction of this State.

i To pay the salaries of superintendent and teachers out of any moneys appropriated or provided by law for that purpose.

j To defray the necessary contingent expenses of said board and said district, including the wages of clerk, janitors, truant officers and other assistants and employees, and incidental expenses.

k To expend all moneys raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such manner as may be deemed advisable, but only for the purpose for which the same was raised, and the expenditures herein directed apply only to school property located within the boundaries of the city of Amsterdam, outside of which the board of education hereby created has neither authority nor jurisdiction.

l To make provision for the instruction of pupils in physiology and hygiene with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system.

m To license, upon the recommendation of the superintendent of instruction of said city, subject to the regulations prescribed by the Department of Public Instruction of this State in relation to the examination of persons in regard to their qualifications to teach, all teachers employed in the schools of said city.

n To take and appropriate land and other real property within said city for the site of schoolhouses, or for other school purposes, when authorized to do so, upon making compensation therefor in cases where the owners thereof, or some of them, shall not consent to sell the same for such purposes, or the board of education of the said city can not agree with such owner or owners, or some of them, upon the price or value thereof, as real property for public use, is taken under and pursuant to the laws of this State. The board of education of said city is hereby authorized and empowered to institute, carry on and complete the proceedings necessary for acquiring said land, and the title thereto, for and on behalf of said school district. The method of procedure to acquire such land shall be that prescribed for the condemnation of real property for public use in title 1 of chapter 23 of the Code of Civil Procedure, and any amendments thereof, entitled "proceedings for the condemnation of real property" and known as the "condemnation law."

o To have to the exclusion of all boards and officers, except the Superintendent of Public Instruction of this State and the Board of Regents of this State, the entire supervision and management of the public schools in said city, and the right from time to time to adopt, alter, modify or repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one schoolroom or schoolhouse to another, for their advancement from class to class as their degrees of scholarship shall warrant, and generally for the promotion of the good order and prosperity of said school.

p To allow the children of persons not resident within said city to attend any of the schools therein under the control of said board, upon such terms as said board may prescribe.

q To establish and maintain a school library and to provide suitable rooms therefor, to employ and pay a librarian, to have the care and supervision of the books and other publications belonging thereto, and supervise the letting out and

return thereof. To exercise the same discretion as to the disposition of the moneys provided by law for the purpose of libraries as is conferred upon the inhabitants of school districts.

r Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings. And except as otherwise provided by this act, to exercise all the powers conferred and all the duties imposed by the general laws of this State applicable to boards of education in cities. The records of the proceedings of said board or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 122 **Estimate of school expenses.** On or before the 15th day of January in each year, the board of education shall prepare a statement of such sums of money as it may deem necessary for the following purposes, for the year beginning on the next succeeding 1st day of August:

a For the wages of superintendent and teachers, after applying all the public school and other moneys applicable thereto.

b For the maintenance of a high school, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

c For the repairs of schoolhouses, outhouses and grounds, with their appendages and appurtenances.

d For the purchase, repair, or improvements of school apparatus, books, furniture and fixtures.

e For the purchase, maintenance and care of the school library, but not to exceed \$400 in any one year.

f For the rent of schoolhouses and rooms for school purposes, the purchase of fuel and lights, and to pay the contingent expense of the district, including the wages of clerk, janitors, truant officers, and other assistants and employees, and incidental expenses.

g For such other purposes as are required by the provisions of this act. Such statements shall, within the time hereinbefore specified, be presented to the mayor or acting mayor of said city, and if he approve such statement, he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein, except the items hereinafter mentioned, which he can not disapprove, he shall within two days return the same to the president or clerk of said board of education with his objections indorsed thereon or annexed thereto. The mayor or acting mayor of said city shall not have power or authority, however, to disapprove or veto any part, portion or item of such statement which specifies the amount of money deemed necessary for the payment of the salary and wages of the superintendent and teachers of said schools and the payment of the contingent expenses of said schools, but said board of education shall have the exclusive power and authority to fix and determine the amount of money necessary for the payment of said salary, wages, and contingent expenses. Said board shall then proceed to reconsider said statement, and if two-

thirds of all the members then in office agree to pass the same, it shall stand as if approved by the mayor and shall be immediately filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objections, and he shall then sign it and file it with the city clerk. If the mayor or acting mayor fails to sign the statement of moneys required, as herein provided, or fails to return such statement, with his objections thereto, to the board of education, within two days after its submission, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall include the amount therein called for in the annual tax and assessment roll for that year, and the amount so certified shall be collected and paid to the city treasurer who shall credit it to the general school fund of the board of education. All public moneys or public funds belonging or appropriated to the use of said district shall be paid to the treasurer of said city, who shall keep the same separate from the general fund of the city, and shall credit to the board of education fund the moneys or property belonging thereto. The board of education shall disburse all the funds of the said district by orders upon the city treasurer, signed by its clerk and countersigned by its president. Said orders shall be numbered consecutively, and shall specify the purpose for which they are drawn, persons to whom payable, and the particular school fund to which they are chargeable. Upon the request from said board of education the city treasurer shall certify from time to time the balance remaining to the credit of said school fund or each separate fund thereof. Whenever any moneys are collected by or paid to the city treasurer for school purposes it shall not be lawful for said treasurer to apply such money, or any part thereof, to any other purpose or object.

§ 123 **New sites and buildings; issue of bonds.** When the board of education shall determine by resolution that it is necessary to purchase any site or any addition to any site or erect any school building or enlarge any school or any building already erected, it shall specify in such resolution the ward within which such site is to be purchased or building erected or enlarged and the particular sum required for each separately. The clerk of the board of education shall embody such resolution in a notice of election which he shall cause to be published in the official newspapers at least once in each week for three consecutive weeks immediately preceding the annual election for school officers in said city. The board of education shall provide at the proper time sufficient printed ballots for and against said tax for the use of the electors, which shall be indorsed "school tax," and shall be deposited in a separate ballot box provided therefor and marked "school tax." Upon the inside of such ballots shall be printed the several items or objects to be voted for or against. Separate ballots shall be provided for and against each separate proposition to be voted upon. The inspectors of election shall canvass the said votes and make a statement thereof in respect to each item voted upon, and immediately file the same with the clerk of the board

of education. Within three days following such election the board of education shall convene at its usual place of meeting at eight o'clock in the evening, and the statement from each polling place shall be produced, and the board shall forthwith declare and make a certificate in writing of the result. In case a majority of the votes cast be in favor of any said taxes, the board of education shall have authority to borrow, upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. In case the sum or sums so authorized to be raised shall exceed the sum of \$10,000, the board of education shall issue bonds or other evidence of indebtedness in such form as it may prescribe for such sum or sums at a rate of interest not exceeding 5 per centum per annum and payable at the rate of not more than \$10,000 of principal per year. Said bonds, or any part thereof, may be sold by said board of education in such manner as it may deem best, but not at less than the par value thereof. The board of education shall, on or before the 15th day of January in each year, file with the mayor a statement of the amount necessary to be raised to pay the interest and principal that will become due during the ensuing year upon the bonds or obligations so issued by said board, and the common council shall include the same in the annual city tax and assessment roll for that year. Such amount shall be collected and paid to the city treasurer and by him credited to the "board of education fund." The common council, upon receiving the certificate of the result of any such election from the board of education, at which any money was voted to be raised, shall include \$10,000 of the amount so authorized to be raised, or any less sum which may have been so authorized, in the next levy and assessment roll for the collection of taxes in said city; but no bonds or other obligations shall be made to mature at such time as will make the amount to be raised by tax for this purpose in any one year exceed \$10,000 of principal. This shall not be construed to affect any obligation made prior to the passage of this act. The board of education, after completing the work or other objects for which the said money may have been raised, may apply any unexpended balance which may remain to any object authorized or contemplated by this section. The polling places for said election shall be designated and said election shall be conducted in the same manner as provided in section 119 of this act relative to annual school elections, except as in this section otherwise provided.

§ 124 **Annual report.** It shall be the duty of the board of education, on or before the 1st day of August, in each year, to make and publish in the official newspapers of said city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes, from any source during the last fiscal year of said board of education, also a full statement of the bonded or other indebtedness of the district. The said board may also, as soon thereafter as practicable, make and publish, in such form as they consider advisable, such other and more extended report in relation to the affairs of the schools of said city as in their judgment may be of interest to the in-

habitants thereof. Said board of education shall also make a report to the Superintendent of Public Instruction of this State, and such report shall be made in the manner, and at such times, as he may direct.

§ 125 **Public moneys.** It shall be the duty of the Superintendent of Public Instruction of this State to apportion for the use of the board of education of the city of Amsterdam, such portions of the school library and other money as it shall be entitled to, by its annual report, in the same manner in which such moneys are apportioned to cities and the amount to which it shall be so entitled shall be certified to the county treasurer of Montgomery county. The said county treasurer of Montgomery county shall pay over to the treasurer of the city of Amsterdam, for the use of the board of education of said city, such proportion of the school, library and other public moneys as may be apportioned by law or by the Superintendent of Public Instruction of this State to the board of education of the city of Amsterdam, for teachers' wages, library and other school purposes.

§ 126 **Ordinances.** The common council of the city of Amsterdam shall have the power, and it shall be its duty to pass such ordinances and by-laws as the board of education of said city shall report as necessary for the protection, safekeeping, care and preservation of the school buildings and other property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 127 **Vacancies.** All vacancies in the board of education occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled by appointment by said board until the next regular school election, when the residue of the term if any, shall be filled by election, as hereinbefore prescribed.

§ 128 **Superintendent of instruction; general duties; report.** The superintendent of instruction of the city of Amsterdam shall confer with and act under the direction of the board of education of said city in performing the duties of his office. He shall, subject to the direction of said board, have general control and supervision of the public schools and the teachers thereof in said city, and shall on or before the 3d day of January, in each year, report in writing to the board of education as follows:

The whole number of schools within the jurisdiction of the board of education and their sanitary conditions; the repairs or alterations, if any, that are necessary for such schools; the condition of the school furniture, apparatus and books in the several schools, and the repairs or additions thereto that may be necessary; the number of teachers employed in the several schools, and their efficiency, with suggestions as to the increase or decrease in the number thereof; number of pupils registered at each school and the average daily attendance; such changes in the curriculum of any or all of the schools as he may deem advisable; as to the condition and management of the high school; such other information in relation to the city schools as may be of interest to the people of the city of Amsterdam.

§ 129 **School district a union free school district.** The school district of the city of Amsterdam is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law not inconsistent with the provisions of this act applicable to school districts whose limits correspond with any incorporated city and the boards of education therein and the corporate authorities of such cities, are made applicable to the school district of the city of Amsterdam and the board of education thereof and to the corporate authorities of said city.

AUBURN

Chapter 577, Laws of 1875

An act to revise and consolidate the several acts relative to the public schools of the city of Auburn

Section 1 The several school districts in the city of Auburn are hereby consolidated, and the corporate limits of said city as they now exist, or may hereafter be changed, are hereby declared to be a separate school district, but nothing in this act shall be construed to prevent the board of education hereinafter named from making, from time to time, such subdivisions of said district as may be necessary for the convenience and accommodation of the pupils attending school therein. The trustees and clerks of the several school districts of said city shall, as soon as this act takes effect, transfer to the secretary of the board of education hereinafter named, all records, books and papers of their respective school districts in their official custody. The title to all real and personal property now belonging to the public school fund of said city, or which may be hereafter acquired, by purchase, gift, grant or otherwise, is hereby vested in said board of education, and the same shall not be subject to taxation for any purpose whatever.

§ 2 The public schools of said city shall be under the control and management of nine commissioners of public schools, to be chosen in the manner hereinafter provided, who shall constitute and be called and known by the name of "The Board of Education of the City of Auburn." Said board of education is hereby constituted a body corporate in relation to all the powers and duties conferred upon it by this act and in the name aforesaid, may sue and be sued, and shall have a corporate seal, such as said board may designate.

§ 3 The members of the present board of education are hereby continued in office until the new board hereinafter provided for, shall have been duly elected and qualified. But the terms of office of each of the members of the present board of education shall cease and determine when such board shall have been duly elected and qualified.

§ 4 Under the provisions of this act, an election shall be held in said city on the third Tuesday of May, in the year 1876, and on the third Tuesday of May in each and every year thereafter, at such places as the common council shall designate of which at least twenty days' notice shall be given by publication in one or more daily papers published in said city, and by posting the same in at least two public places in each ward, signed by the city clerk and by the secretary of the board of education of said city.

§ 5 The first and tenth wards, as now designated, shall constitute the first election district; the fifth and sixth wards shall constitute the second election district, the fourth and seventh wards shall constitute the third election district, the third and eighth wards shall constitute the fourth election district and the second and ninth wards shall constitute the fifth election district for the purposes

of this act; and the inspectors of election, selected and appointed pursuant to the provisions of the election law to serve at general elections in said city, for the wards wherein the elections under this act shall be designated to be held, shall be the inspectors of these elections; and the provisions of law applicable to election districts, and to inspectors of elections therein, except as to previous registry of voters, shall apply to said districts and to said inspectors. (*As amended by L. 1879, ch. 318; L. 1911, ch. 422.*)

§ 6 Every person of the age of 21 years and upward, residing within the district where his or her vote is offered, and entitled to hold lands within the State, who owns in his or her own right, or whose husband or wife owns real property subject to taxation for school purposes in said city, and every resident of such district authorized to vote at charter elections in said city or who would be authorized to vote at such charter elections, if not disqualified by sex, who owns personal property taxed for school purposes in said city exceeding fifty dollars in value, or who has permanently residing with him or her a child or children of school age some one or more of whom shall have attended the public schools of said city for a period of at least fourteen weeks during the year preceding, and no other shall be allowed to vote at such elections. All penalties provided by law for illegal voting at any charter election for the election of the city officers for said city, shall apply to such election; and any person offering to vote may be challenged, as at a charter election aforesaid; and the same proceedings had thereon as are or shall be prescribed by law in relation to general elections, so far as the same shall be applicable to this election. (*As amended by L. 1888, ch. 381.*)

§ 7 The city clerk shall give notice, in writing, of every election to be held under this act, to the inspectors of election in the several wards wherein the said election shall have been designated by the common council to be held, as aforesaid; and said inspectors shall provide a ballot box, to be marked or labeled "schools," for the reception of ballots, and two blank books, in which they shall record the name and residence of every person who shall vote at said election, and the name and residence of every person who shall offer to vote and whose vote shall be rejected, properly designated as rejected, with reason therefor.

§ 8 The polls of the election in the several election districts at the said school election, shall be opened at six o'clock on the morning of the day of election, and shall be kept open, without intermission or adjournment, until five o'clock in the afternoon, when they shall be finally closed; and the inspectors shall, without adjourning, canvass the votes received by them, and certify, in writing, to the same, and deliver one copy of said certificate to the city clerk, and another copy to the secretary of the board of education, within twenty-four hours after closing the polls; and said inspectors shall cause one copy of the list of persons so voting or offering to vote at said election, duly certified to, to be delivered to the secretary of the board of education, and the other copy, also duly certified to, to the city clerk of said city. (*As amended by L. 1911, ch. 422.*)

§ 9 At the election to be held on the third Tuesday of May, 1876, there shall be elected nine commissioners, to be voted for under the title of "commissioners

of public schools," in the same manner as other city officers are elected, except that only six names shall be voted on any one ticket, and any ticket having thereon more than six names shall not be counted; and no person entitled to vote at such election shall vote for more than six of said commissioners, and the nine persons receiving the highest number of votes at such election shall be declared elected commissioners as aforesaid.

§ 10 The common council of said city shall meet at the common council room at ten o'clock in the forenoon, on Tuesday next after the election, and the statements of the inspectors of the several election districts shall be produced by the city clerk, and the common council shall forthwith determine and declare who are, by the greatest number of votes, elected as said commissioners, as appears by said returns. And they shall thereupon proceed to classify by lot, the commissioners so elected, in manner following: The names of the six commissioners who were elected by the highest number of votes shall be placed in a box by themselves, and the names of the other three commissioners elected shall, in like manner, be placed in another and separate box by themselves. The names of two commissioners shall then be drawn from the box containing the six names, and one name shall be drawn from the box containing the three names, and the persons whose names are so drawn shall constitute the first class, and shall hold their office for three years. In like manner the names of two additional commissioners shall be drawn from the first named box, with the name of one additional commissioner from the second named box, and the three persons whose names are so drawn at the second drawing, shall constitute the second class, and shall hold their office for two years. The other three commissioners, whose names are not drawn, shall constitute the third class, and shall hold their office for one year. And the common council shall make and sign a determination of such election and classification of the commissioners so as before elected, which shall be entered in the minutes, and the original filed by the city clerk in his office, and a copy thereof in the office of the secretary of the board of education, and the city clerk shall notify every person so elected of his election and classification within twenty-four hours after such determination.

§ 11 The said board of education, so constituted, shall hold their first regular meeting on the following fourth Tuesday of May, 1876, at ten o'clock a. m., at the regular place of meeting of the present board of education, and elect by ballot one of their number president, who shall hold his office for one year, and until his successor shall be designated; and said board shall annually thereafter meet at their regular place of meeting on the fourth Tuesday of May, and designate by ballot one of their number to be president of said board for the ensuing year. In case of vacancy in the office of president by death, resignation or otherwise, the board shall elect a president for the unexpired term.

§ 12 There shall be held a special election annually, on the third Tuesday of May, after the year 1876, at which there shall be elected three commissioners of public schools aforesaid, to take the places of those commissioners whose terms of office are about to expire, and whose terms of office shall commence on the Tuesday succeeding such election, and continue for three years. The regulations

prescribed for the first election under this act, and for the determination by the common council of who have by the greatest number of votes, been elected, shall so far as applicable, apply to each annual election. (*As amended by L. 1879, ch. 318.*)

§ 13 In case of a tie vote at any election herein provided for, the mayor and common council of said city, at the first meeting after such election, shall determine, by ballot, who, among those receiving the highest number of votes, shall be declared elected, and the person or persons so designated shall be commissioner or commissioners, the same as if duly elected by a majority vote.

§ 14 In case of a vacancy in said board of education, occasioned by the death or resignation of any of its members, or otherwise, the said board of education shall fill the same for the unexpired term by appointment by ballot, and the vote of two-thirds of all the members of said board shall be necessary to a choice.

§ 15 The inspectors of election provided for in this act shall be entitled to the like compensation as the inspectors of election for said city are allowed for similar services, to be paid out of the school fund of said city, on the order of the board of education of said city.

§ 16 The commissioners elected or appointed under this act shall, within ten days after being notified of their election, and before entering upon the duties of their office, take and subscribe the official oath prescribed by law for other city officers, and file the same in the city clerk's office, and any neglect so to do shall be deemed a refusal to serve, and the office shall thereupon become vacant.

§ 17 A majority of said board of education shall constitute a quorum, but a less number may adjourn.

§ 18 Regular meetings of said board of education, for the transaction of business, shall be held on the first Tuesday in each month, and said board shall make such rules and regulations for its own government, as it shall from time to time find necessary. Special meetings of said board may be held on the order of the president, or upon the request of any two members of said board, after due notice to all the members, by the secretary, of the time, place and purpose of such special meetings, and no business shall be transacted thereat except such as shall be specified in the notice thereof. At any meeting held without due notice, at which every member of said board shall be present and consent, any business may be transacted which might have been transacted if the meeting had been a duly called special meeting. In the absence of the president the board may appoint some other member to preside and perform the duties of president. (*As amended by L. 1911, ch. 422.*)

§ 19 The said board of education shall have power, and it shall be its duty to continue, organize, establish and maintain such and so many public schools in said city, as said board may deem necessary for the proper education of all persons entitled to the benefits thereof, to purchase, lease, or improve sites and additions thereto for schoolhouses; to purchase, build, lease, enlarge, alter, improve or repair schoolhouses and their outhouses and appurtenances; and if it is unable to agree with the owner or owners for the purchase of any real estate

required by it for the site of any schoolhouse or additional land adjoining to and for the enlargement of an established site, to acquire title to such property by condemnation, as provided in title 1 of chapter 23 of the Code of Civil Procedure; to sell and convey any real or personal property belonging to the school fund, in the manner hereinafter provided; to purchase, exchange, improve and repair any school apparatus, books, furniture or appendages and to defray the expenses of the school library or libraries and to furnish class or textbooks for the free use of the schools; to have the care, custody and safekeeping of all the school property, both real and personal, and to prescribe penalties for any damage thereto, or misuse thereof; to contract with and employ all necessary teachers for such public schools subject to the removal of any such teacher whenever said board may deem it for the best interests of the schools; to establish evening schools for the benefit of those whose ages or vocations are such as to preclude their attendance upon the day schools in this act provided for; to pay the wages of teachers employed by said board out of the fund appropriated by law, for such purpose; to audit and pay all necessary contingent expenses of the board, including the salary of the secretary and superintendent, the wages of janitors, the cost of fuel and any and all necessary expenditures incurred in the conduct of said schools, and the payment of the same or such parts thereof as shall be allowed by the said board, shall be made directly to such claimants, out of moneys belonging to the public school fund, upon the order of said board, as hereinafter provided, but the aggregate of the expenditures and contracts shall not exceed the amount of moneys which shall be subject to their order during the then current year; to have the general superintendence and management of the public schools of said city, and from time to time adopt, alter, modify, or repeal, as they may deem expedient, any rules or regulations for the organization, government and instruction of said schools, for the reception of pupils, their transfer from one department to another, for their advancement from class to class, as their degrees of scholarship shall warrant, and generally for the promotion of the good order, prosperity and public utility of said schools; and to that end said board is hereby vested with the control and authority over all pupils attending the schools under its charge, both while in attendance, and in going to and returning from schools. (*As amended by L. 1893, ch. 117; L. 1906, ch. 68.*)

§ 20 The academic high school shall be considered as one of the public schools of said city, and shall be continued as provided in section 3 of chapter 176 of the Laws of 1866, and said high school shall be entitled to all the privileges of the academies of the State, and be subject to visitations from the Regents of the University, and share in the distribution of the moneys of the literature and other funds of the State, and be subject to all the rules and regulations applicable to the incorporated academies of the State.

§ 21 In no case shall tuition be charged for any pupil whose parents or legal guardians are residents of said city, but upon the payment of such tuition as the board of education may from time to time prescribe, the said board may admit to any of the public schools under its charge any pupil or pupils whose parents or legal guardians are not residents of said city. Any school tax paid to the city

treasurer of said city, by the parent or legal guardian of any such nonresident pupil, may be applied toward the payment of said tuition for the current school year in which said tax is levied and paid, and not otherwise. (*As amended by L. 1879, ch. 318.*)

§ 22 It shall be the duty of said board of education to elect a secretary, who shall hold office during the pleasure of the board. They shall fix his salary, and he shall be superintendent of all the schools under the care of the board. As superintendent he shall, under the direction of the board, determine the course of studies to be pursued in the different schools; he shall hold teachers institutes as the board may direct; he shall visit each school personally as often as his other duties will permit; he shall recommend to the board such regulations as he may deem best for the management and control of the schools, and perform such other duties as the board may, from time to time, impose. As secretary he shall keep a record of the proceedings of each meeting of said board, which shall at all times be open to public inspection, shall countersign all checks, drafts or warrants drawn by the board, and perform all other duties which the board may from time to time enjoin. He shall annually present to the board at their regular meeting in August, a report which shall contain a statement of the condition of the schools for the year preceding, the number of scholars who have been in attendance during such year, the receipts and expenditures of the board on account of the public schools, and such other information as said board may require and direct.

§ 23 The teachers in the public schools of said city shall be employed by said board of education, subject to such regulations and restrictions as said board may, from time to time, prescribe. Any teacher may be removed for cause, to be specified in the minutes of the proceedings of said board; and in case of such removal, the contract with such teacher shall cease. (*As amended by L. 1879, ch. 318.*)

§ 24 The board of education is hereby authorized to organize a teachers class in the high school of said city, which shall be entitled to an annual allowance from the literature fund of the State of New York, on the conditions and rules of Regents of the University, adopted for the distribution of said fund in academies in which such classes are instructed.

§ 25 The said board of education is hereby authorized to employ a teacher or teachers in the asylum for destitute children in said city, and pay therefor out of the public school fund in like manner as other teachers are paid, and said board is hereby authorized to supply said asylum with fuel for school purposes, in like manner as other schools are supplied; and said board shall have the same care, oversight and direction of said school as of the other public schools in said city; but nothing in this act shall be construed to give the board of education any control over the management of said asylum except as herein provided. The board of managers of said asylum, with the concurrence of said board of education, may at any time discontinue such school, in which case the pupils therein shall be entitled to all the privileges of any other of the public schools of said city.

§ 26 The said board of education may impose a penalty, not exceeding one

hundred dollars in any one case, for any misuse of, or damage to, any real or personal property under its charge, and such penalty, together with costs, shall be collected in the name of said board, in the same manner that penalties for the violation of the ordinances of the common council of said city are collected, and when so collected shall be paid to the treasurer and tax receiver of said city, to be placed by him to the credit of the general school fund; and the parent or guardian of any minor, and the master or mistress of any apprentice or servant, shall be liable for any such penalty and costs for a violation by any such minor, apprentice or servant, of any ordinance adopted by the board of education. It shall be sufficient notice of any ordinance imposing such penalty to cause the same to be published in any daily newspaper of said city for one week.

§ 27 The said board of education may sell and dispose of any personal property, at any time belonging to the school fund of said city, by a vote of a majority of the members of said board, at any regular meeting, after one month's notice thereof; and may also sell, convey and dispose of any real estate at any time, belonging to said school fund by a vote of two-thirds of the members of said board, at any two regular consecutive monthly meetings of said board, and the avails of the sales of any such real or personal property shall be deposited with the treasurer and tax receiver of said city to the credit of the general school fund.

§ 28 It shall be the duty of said board of education, annually, on or before the 15th day of May, to fix, determine, certify, and report to the common council and to the board of estimate and control of said city, the amount of money which, in addition to the amount of money annually apportioned to the public schools of said city out of the funds belonging to the State, shall be necessary to defray the expenses of all the public schools under the charge of said board for the ensuing year, for building, fuel, furniture, school apparatus, repairs, insurance, teachers wages, and contingent expenses of the schools, and to pay the compensation of the secretary and superintendent aforesaid and the contingent expenses of said board. A statement of the amount so fixed, determined and certified shall be filed in the office of the city clerk by said board. The amount so certified, exclusive of the amount required for building purposes, shall in no case exceed a sum equal to forty dollars per capita, based on the average yearly membership of persons in attendance as day pupils in the public schools for any one of the five school years next preceding. And the amount to be raised for building purposes shall in no case exceed eight thousand dollars in any one year, unless by the unanimous consent of every member of said board. To the statement filed as hereinbefore provided there shall be appended a certificate setting forth the average membership of day pupils in each of said public schools for each month of the school year upon which the aforesaid average yearly membership is based. (*As amended by L. 1879, ch. 318; L. 1909, ch. 591; L. 1911, ch. 422; L. 1914, ch. 286.*)

§ 29 The common council of said city shall annually levy and raise the amount of money so certified and reported by the board of education, and the amount so to be raised shall be levied and collected at the same time and in the same manner as the other general taxes of the said city are levied and raised,

and in addition thereto; but all moneys raised for school purposes under this act shall be rated separately and as collected shall be kept separate and distinct from the other taxes levied and collected for city purposes.

§ 30 All moneys levied and raised for the support of public schools, together with the public money received from the State, and all moneys received from other sources for school purposes, shall be paid to the treasurer and tax receiver of the city of Auburn, in trust, and shall by him be kept separate and distinct from other moneys, and shall at least as often as once in each week, be by him deposited to the credit of the board of education in some bank of deposit or trust, to be designated as hereinafter directed, said deposits to be known and distinguished as the public school fund of the city of Auburn. Said fund so deposited as aforesaid shall be drawn out only upon order of the board of education, by resolution adopted by a two-thirds vote of said board and signed by the president, and countersigned by the secretary of said board of education. Such order shall specify for what purpose the amount named therein shall be paid, and the secretary of such board shall keep an accurate account of all orders drawn on said fund, in a book to be kept by him for that purpose, and shall report at each monthly meeting to the board the amount of such orders drawn from the commencement of the fiscal year to the date of such report. The treasurer and tax receiver shall also report to the said board, on the first day of each and every month, the condition of the school fund in his hands, if any, also the amount of said fund which has come into his hands during the preceding month, and when and where deposited. And the bank or trust company holding said deposit shall be required to report to said board of education, on the first day of each and every month, the transactions of said board with said bank or trust company during the preceding month, stating the amount on hand at the commencement of the month; the several amounts deposited during the month, the amount of interest allowed on monthly balances on hand as shall be agreed upon, and the amounts drawn, and on whose order, and the balance in bank to the credit of the board at the close of the month. In case said treasurer and tax receiver shall retain in his hands, contrary to the true intent and meaning of this act, or shall transfer or divert any part of the school moneys coming into his hands, to any other purpose than is herein specified, it shall be the duty of said board immediately to commence suit in the Supreme Court against such treasurer and tax receiver and his sureties, for the recovery of the sum so unlawfully retained, transferred or diverted, and double taxable costs shall be allowed against such treasurer and tax receiver and his sureties, upon recovery of any sum against them, and such treasurer and tax receiver and his sureties are hereby declared to be liable on their official bonds for any default, delinquency, neglect or misconduct in relation to the trust created by this act. And the treasurer and tax receiver shall for each and every wilful violation of either of the provisions of this section, be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine not exceeding five hundred dollars, or to imprisonment in the county jail for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the court before which

such conviction shall be had. The board of education of said city of Auburn are hereby authorized at their first regular meeting in September, in each and every year, to designate the bank of deposit or trust wherein said school funds shall be deposited for the ensuing year. The board of education shall require from any depository designated for the deposit of such school moneys, a bond in such amount and with such sureties as shall be approved by the mayor of said city of Auburn, and by the president of said board of education for the safekeeping of such school moneys, and the payment of the same as required upon the orders of the board, and which said bond shall be renewed whenever required by said board of education. Such bond shall be made payable to said board of education, and filed in the office of the clerk of Cayuga county, and suit shall be brought thereon, by said board of education, for any deficiency in complying with any of the conditions thereof, whenever required by a vote of a majority of said board.

§ 31 The said board of education shall, annually, on the 1st day of August, or as soon thereafter as practicable, cause a report to be prepared and published for general distribution among the patrons of the public schools of said city, which shall give in detail all practical information concerning the management, expenses and progress of the public schools aforesaid.

§ 32 An appeal may be taken to the State Superintendent of Public Instruction from any proceeding of the said board of education.

§ 33 All acts or parts of acts inconsistent with this act are hereby repealed.

§ 34 This act shall take effect immediately.

BATAVIA

Chapter 354, Laws of 1914

An act to incorporate the city of Batavia

TITLE XIV

CITY SCHOOLS

Section 200 City schools. The territory included within the boundaries of the city of Batavia shall remain as a part of Batavia union school district number 2, subject to alterations in accordance with the provisions of the school law. Such school district shall be entitled to and continue to have all the rights, powers, privileges, public moneys and other benefits conferred by law or otherwise upon schools and school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence applicable to schools and school districts.

§ 201 Separate returns of unpaid school taxes on real estate shall be made in the school district in which the city of Batavia is included, one for such unpaid taxes on real estate within the city, and the other for such unpaid taxes on real estate without the city. Such account of unpaid taxes upon real estate without the city shall be transmitted to the treasurer of the county as provided in the Education Law. Upon receiving such account of unpaid taxes for school purposes on real estate within the city from the collector, the trustees of the school district shall compare it with the original tax list, and if they find it to be a true transcript they shall add to such account their certificate to the effect that they have compared it with the original tax list and found it to be correct, and shall immediately transmit the account, affidavit and certificate to the treasurer of the city. Out of any moneys in the city treasury, raised for contingent expenses, or for the purpose of paying the amount of the taxes so returned unpaid, the city treasurer shall pay to the district treasurer the amount of the taxes so returned as unpaid, and if there are no moneys in the treasury applicable to such purpose, the city council, at the time of levying such unpaid taxes, as hereinafter provided, shall pay to the district treasurer the amount thereof, by voucher or draft on the city treasurer, in the same manner as other city charges are paid. Such account, affidavit and certificate shall be laid by the city treasurer before the city council, who shall cause the amount of such unpaid taxes, with seven per centum of the amount in addition thereto, to be levied upon the lands upon which the same were imposed; and if imposed upon the lands of any incorporated company, then upon such company; and when collected the same shall be returned to the city treasurer to reimburse the amount so advanced, with the expenses of collection. Any person whose lands are included in any such account may pay the tax assessed thereon, with five per centum added thereto, to the city treasurer, at any time before the city council shall have directed the same to be levied. The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the city council as are provided by law in respect to the city taxes. (*As added by L. 1915, ch. 536.*)

BEACON

Chapter 539, Laws of 1913

An act to incorporate the city of Beacon

Section 102 **Schools and the boards of education.** 1 All the territory included within the said city of Beacon shall hereafter be one school district and so much of the school districts at present included within the present villages of Matteawan and Fishkill Landing shall cease to exist from the 1st day of September, 1913, except that the portions of said districts which shall remain outside of said city boundaries shall continue as districts until they shall have changed in accordance with the Education Law. Upon the taking effect of this act, the district superintendent of schools having jurisdiction shall apportion the outstanding bonded indebtedness of the school districts included within the present villages of Matteawan and Fishkill Landing between that portion of such districts which is included under this act within the city of Beacon and the portion remaining outside of such city according to the assessed valuation of such portions of such districts and the amounts of said indebtedness so apportioned shall become a charge for principal and interest upon the said city and upon the districts formed by this act.

2 The school district of the city of Beacon shall be controlled by a board of education consisting of nine members appointed by the city council. At a regular meeting of the council to be held during June 1913, the council shall choose nine members to hold office from and after September 1, 1913, three for three years, three for two years and three for one year, all from September 1, 1913; and thereafter at such meeting in every June the council shall choose three members of the school board to hold office for three years. Any person of good moral character and legal age and not otherwise an official or employee of the city, who is a resident of the city, may be eligible to appointment as such member of the school board.

3 The school board shall have exclusive charge and control of all school matters and school property of the city. It shall prepare an annual report and a budget for the ensuing year for the annual meeting of the council. The commissioner of finance shall have the custody of all school funds, but shall pay out the same on the written order of the school board properly countersigned by its president and clerk.

4 The board of education and its successors shall possess all the powers conferred and discharge all the duties imposed by this act or by any general law of this State relating to school districts in cities; or relating to the board of education of such districts. It shall have power to appoint a clerk and fix his salary.

5 The commissioner of finance is hereby designated as the person to receive all public money which the said city, or the schools therein, are or shall be entitled to receive from the State, or by tax or by loan from the city, or otherwise.

6 Money for all school purposes, including erection of new buildings, repairs, additions to present structures and the purchase of land for school purposes, shall be raised by the city council in accordance with the general provisions of the charter.

BINGHAMTON

Chapter 751, Laws of 1907

An act to revise the charter of the city of Binghamton

TITLE XVI

DEPARTMENT OF EDUCATION

- Section 384 Existing board of education continued; appointment of commissioners of education; filling of vacancies; oath of office
- 385 Removals from office
- 386 Meetings; president and secretary; quorum; president pro tempore
- 387 Duties of secretary; proceedings to be published
- 388 Money to be raised for certain purposes
- 389 Fiscal year; annual estimate; amount that may be raised
- 390 Expenditures, limited; liability for exceeding limit
- 391 City treasurer to receive State moneys
- 392 Moneys, how paid out by treasurer
- 393 Treasurer to report when required
- 394 Powers of board of education
- 395 Admission to public schools
- 396 High school and academy
- 397 Appointment and removal of superintendent of schools
- 398 Superintendent of buildings; truant officer
- 399 Annual report to Superintendent of Public Instruction
- 400 Repairs; sale, purchase or lease of school property
- 401 Title of school property; taking property in trust for schools
- 402 Moneys received from sale of school property; how disposed of
- 403 Power of common council to pass ordinances for school purposes
- 404 Board to certify necessity for bonding
- 405 Visitation

Section 384 Existing board of education continued; appointment of commissioners of education; filling of vacancies; oath of office. The existing board of education of the city of Binghamton with its successors shall continue to be a body corporate in relation to the powers and duties conferred by this act and otherwise by general laws of the State and the commissioners thereof now in office shall continue in office until the expiration of their respective terms, and they and their successors shall serve without compensation. The vacancies occurring in said board by the expiration of the terms of the commissioners whose terms expire on the 1st day of February, 1908, and the 1st day of February, 1909, shall not be filled, and after February 1, 1909, said board shall consist of but five members. On the 1st day of January, 1910, and on each 1st day of January thereafter the mayor shall appoint one commissioner of education for the term of five years from the 1st day of February next after his appointment, and whenever a vacancy shall exist, other than in the office of the commissioners whose terms expire February 1, 1908, and February 1, 1909,

the mayor shall fill such vacancies by appointment for the balance of the term. Each commissioner within five days after his appointment, shall take and file with the city clerk the constitutional oath of office.

§ 385 **Removals from office.** Any member of said board of education may be removed from office for cause by the mayor of said city, provided, always, that such member shall be served with a copy of the charges preferred against him and notice of trial, not less than twenty days previous to the day fixed for the hearing of the matter, by leaving such copy and notice at his residence in the city, or by sending the same to his address by mail; the accused member on his appearing before the mayor for trial, shall have the usual privileges in similar cases extended to him in his defense.

§ 386 **Meetings; president and secretary; quorum; president pro tempore.** The board of education shall meet annually on the first Monday in February, at seven and one-half o'clock in the afternoon, and at such other times as it shall by resolution designate. Special meetings may be called by the president of the board, or by any two commissioners, by causing a written or printed notice to be served upon each member of the board, either personally or by leaving the same at least forty-eight hours before the time of such special meeting, at his usual place of residence or business, with some person of suitable age and discretion. At such annual meeting, the board shall select a president from its number, who shall hold his office until the next annual meeting of the board, and may appoint a secretary, who shall hold his office during the pleasure of the board, and who shall receive a salary to be fixed by said board at the time of his appointment, payable monthly. A majority of the board shall constitute a quorum, but a less number may adjourn. Whenever the president shall be absent or unable to act, a president pro tempore shall be appointed.

§ 387 **Duties of secretary; proceedings to be published.** The secretary shall keep a record of the proceedings of the board, which shall be published in the official paper from time to time as they occur, the same as the proceedings of the common council. Said record or a transcript thereof, certified by the president and secretary, shall be received in all courts and places as prima facie evidence of the facts therein set forth. Such record, and all the books, accounts, vouchers and papers of the said board shall at all times be subject to public inspection. The secretary shall perform the duties prescribed by law, and such other duties as the board may impose. In his absence a secretary pro tempore may be appointed, who shall exercise all the power of the secretary.

§ 388 **Money to be raised for certain purposes.** The common council of the city of Binghamton shall have power, and it shall be its duty to raise, from time to time, by tax to be levied upon all the real and personal estate in said city liable to taxation for city or county charges, such sums as may be estimated and certified by the board of education, and determined by the board of estimate and apportionment and the common council to be necessary and proper for any or all of the following purposes:

- I To purchase or lease sites for school buildings.

2 To build, purchase, lease, enlarge, alter or repair schoolhouses, their out-houses and appurtenances, and to improve schoolhouse grounds.

3 To pay such part of the salaries of the superintendent and teachers as shall be due, after the application to that purpose of the public moneys which may be appropriated and provided therefor by law.

4 To defray the expenses of the city school library, if any, including the purchase and repair of cases and furniture therefor; the purchase, and rebinding of books, and the salaries of librarian and assistants, if any; and to purchase, exchange, improve and repair school apparatus and cabinets therefor; and class or textbooks for the pupils attending the public schools of the city.

5 To defray the ordinary and contingent expenses of the schools and board of education, including the seating, furnishing, heating, lighting, keeping in order, and insuring the several school buildings, and to pay the salary of the secretary, and all other expenses not provided for under the four preceding heads.

The sums raised or received for said several purposes shall be known respectively as the "site fund," the "building fund," the "teachers' fund," the "library and book fund," and the "general fund."

§ 389 **Fiscal year; annual estimate; amount that may be raised.** The fiscal year of the board of education shall commence on the first Monday of August in each year. The board shall on or before the first day in October, annually, make and certify to the mayor a detailed estimate of the amount necessary to be raised by tax for each fund or class of purposes aforesaid for the ensuing fiscal year, a statement of the number of teachers employed or proposed to be employed in each school during the ensuing year and the salary paid or proposed to be paid to each teacher, and, also, a statement of the amount received from the State for school purposes during the preceding fiscal year. Upon the reception of said estimate the mayor shall place the same before the board of estimate and apportionment, which shall proceed to consider the same and approve increase or diminish any or all of said amounts, in the same manner as the estimates of other departments; but nothing herein contained shall be deemed to authorize the board of estimate and apportionment or the common council to increase or decrease the salary of any individual teacher or employee of the department of education. The aggregate amount to be raised by tax for school purposes in any one year shall not be less than a sum equal to twenty-five dollars, nor more than a sum equal to forty dollars per capita based on the total number of persons enrolled as pupils in the public schools for the school year ending on the preceding thirty-first day of July, as certified to the state department of education. (*As amended by L. 1914, ch. 289.*)

§ 390 **Expenditures, limited; liability for exceeding limit.** The board of education shall, during the ensuing fiscal year, limit the expenditure so as not to exceed any fund, and not lessen the time each school shall be kept open. In case the board shall, during any fiscal year, authorize expenditures from any fund in excess of the whole amount of such fund, the city shall not be liable for such excess, but the members of the board of education voting therefor, or any of them, shall be personally liable therefor to the party entitled to payment.

§ 391 **City treasurer to receive State moneys.** The city treasurer shall receive all moneys appropriated by the State to said city for school purposes, and shall, at the proper time in each year, draw upon the treasurer of Broome county, or other proper official therefor.

§ 392 **Moneys, how paid out by treasurer.** All moneys applicable to the maintenance of the schools or library, from whatever source received, shall be paid to the treasurer of the city, and by him placed to the credit of the educational fund, and shall be used or paid out by him only upon bills properly allowed and audited in the same manner as obtains in the case of other bills against the city.

§ 393 **Treasurer to report when required.** The treasurer shall, at all times when called upon, report to the board the amount of money in his hands to the credit of the educational fund. For any default, delinquency or official misconduct in relation to the keeping or payment of any school moneys on the part of the treasurer, the board may cause a suit or suits to be prosecuted in the name of "The city of Binghamton," upon his official bond.

§ 394 **Powers of board of education.** Subject to the provisions of this act and the Consolidated School Law, the board of education shall have the power and it shall be its duty:

1 To establish, organize and maintain in said city such and so many free schools as said board shall deem requisite and expedient, including an academical department or high school, and change or discontinue the same in its discretion.

2 Have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appurtenances, and see that the ordinances of the common council in relation thereto are enforced, and any violation thereof punished.

3 Contract with, employ and fix the salaries of all teachers in the schools of the city, and at pleasure remove them, under such rules and regulations as may be established by law, or by the Department of Public Instruction of the State.

4 Have the entire supervision and management of the public schools of said city, and the right from time to time to adopt, amend or repeal rules and regulations for their organization, government and instruction, the reception of pupils and their transfer from one schoolroom, or schoolhouse to another, for their advancement from class to class, as their degree of scholarship shall warrant, and generally for the promotion of good order and the prosperity of said schools.

5 To prescribe the textbooks to be used in the schools, and to compel uniformity in the use of the same, and to furnish the same to the pupils attending the public schools of the city, in such grades as the board of education may determine, out of any moneys provided for that purpose.

6 Have all the powers and be charged with all the duties of the commissioners of common schools, and of trustees of the several school districts in this State, under the general statutes relating to common schools, so far as such powers and duties can be made applicable to the schools herein provided for, and are not inconsistent with the provisions of this act.

§ 395 **Admission to public schools.** The public schools of the city shall be free to all pupils between the ages of 4 and 21 years, who are actual residents of said city; provided that pupils between the ages of 4 and 6 years shall be

admitted only to a kindergarten department, and those under 5 years of age shall be admitted to such department only at such times in the school year as may be fixed by the superintendent of schools and approved by the board of education. The board of education shall decide all questions of residence arising under this section. The said board may allow children of nonresidents to attend the schools of said city, and shall prescribe the rates of tuition of such nonresidents, and, also, for all pupils over 21 years of age, payable always in advance.

§ 396 **High school and academy.** The existing high school shall continue to be recognized as one of the academies of this State, and shall be subject to the visitation of the Regents of the University, and shall share in the annual distribution of the literature and other school funds in the same manner, and to the same extent, and upon the same conditions as other academies and the academic departments of union free schools; and the Regents shall annually pay to the city treasurer, for the use of the board of education, the distributive share of said funds to which said high school is entitled.

§ 397 **Appointment and removal of superintendent of schools.** The board of education may appoint a superintendent of the public schools of the city, who shall hold his office during the pleasure of the board, provided, only, that he shall not be removed from office except at the close of the school year unless charges in writing be preferred against him and he be given a period of ten days in which to file an answer and an opportunity to appear before the board and be heard in his defense at the expiration of said ten days. The superintendent shall be under the control of the board and it shall establish rules and regulations prescribing his general powers and duties. His salary shall be fixed by the board and be paid out of the teachers' fund.

§ 398 **Superintendent of buildings; truant officer.** The board may appoint a superintendent of school buildings and a truant officer, to hold office during the pleasure of the board, but neither of such officers, when appointed, shall be removed except in the manner provided in the last preceding section, for the removal of the superintendent of schools. The superintendent of buildings shall perform such duties with relation to the school buildings, school furniture and fixtures as the rules of the board shall prescribe, or the board from time to time direct. The truant officer shall perform such duties as are imposed by the school law of the State. The salaries of the superintendent of buildings and the truant officer shall be fixed by the board, subject to the approval of the board of estimate and apportionment.

§ 399 **Annual report to Superintendent of Public Instruction.** Between the 1st and 15th days of October in each year, the board shall make to the Commissioner of Education of the State a report, in writing, giving such information as he may require, concerning the public schools of the city, and the receipts and expenditure of school moneys during the preceding fiscal year.

§ 400 **Repairs; sale, purchase or lease of school property.** Whenever, in the opinion of the board, any repairs are needed to the public school buildings in the city, it shall direct the superintendent of buildings to make application to the

board of contract and supply for authority to make such repairs. It shall recommend to the common council, when, in its opinion, the public interests require, the sale of any schoolhouse, the purchase or lease of any land or building for a schoolhouse, and when authorized thereto by an ordinance of the common council, the board of contract and supply may make such sale, purchase or lease in the manner in this act provided; and it may recommend to the common council the erection of any school building; and when authorized thereto by an ordinance of the common council, the board of contract and supply may erect such building in the manner and upon the conditions prescribed in this act; but the plans and specifications for such building shall, before their adoption by the common council, be approved by the board of education.

§ 401 **Title of school property; taking property in trust for schools.** The title of the schoolhouses, sites, lots, furniture, books, apparatus, appurtenances and of all other school property shall be vested in the city of Binghamton. Such city in its corporate capacity may take and hold any personal or real estate transferred to it by grant, gift, devise or bequest, in trust, for the benefit of the schools of said city, or any of them, whether the same be transferred in terms to said city, by its corporate name, or by any other designation, or to any person or body for the benefit of said schools, or any of them. The board of education, when authorized by the common council, may sell and transfer any personal property not needed for the purposes of this act; and such board, and the city of Binghamton, in their corporate capacities, by their concurrent action may, by an instrument executed by both grantors, sell and convey any of the real property held for school purposes, and all interests of the city therein.

§ 402 **Moneys received from sale of school property; how disposed of.** All moneys received for the use of the board from the sale of school property, and from other sources than taxes and the State, shall be paid to the city treasurer and added to the several funds to be expended for the stated purposes thereof, as follows: From the sale or lease of sites, to the site fund; from the sale, lease or insurance of buildings, to the building fund; from tuition, to the teachers' fund; from the sale of library books and furniture, school books, apparatus and cabinets therefor, and from library fines, to the library and book fund; and from all other sources to the general fund. Moneys added to any fund, as aforesaid, may be transferred to any other fund by the board of estimate and apportionment on request of the board of education, but moneys raised by tax or provided by the State for specific purposes, shall not be diverted to other purposes.

§ 403 **Power of common council to pass ordinances for school purposes.** The common council shall have power, and it shall be its duty, to pass such ordinances and regulations as the board of education may report as necessary for the protection, preservation, safekeeping and care of the school buildings, lots, libraries and property belonging to or connected with the schools of said city. All penalties for the violation thereof, when collected, shall be paid to the treasurer of the city to the credit of the educational fund.

§ 404 **Board to certify necessity for bonding.** If in the judgment of the board it shall become necessary at any time to raise any greater amount of money for the purchase of sites, the erection, alteration or repair of school buildings, or their appurtenances, than shall have been included in the site and building funds in the last preceding tax levy for school purposes, said board shall certify such opinion to the common council, showing in such certificate the facts which to said board appear to render the raising of such money necessary, together with the amount desired. Upon the receipt of such certificate it shall be the duty of said common council to submit to the resident taxpayers of the city, at a special election to be held in the manner provided in title seventeen of this act, the question of raising the estimated amount by the issue of the bonds of the city.

§ 405 **Visitation.** Each school commissioner shall visit all the schools in said city at least once in each year of his official term; and the board of education shall provide that each of said schools shall be visited by a committee of three or more of its members at least once in each term.

Section 6 provides for five commissioners of education and section 8 provides that such commissioners shall be appointed by the mayor. Section 9 fixes the term of office five years. Section 10 provides that officers shall be resident electors of the city but that such provision shall not prohibit the appointment of women to such office. Section 14 requires the usual constitutional oath of office.

BUFFALO

Chapter 217, Laws of 1914¹

An act to provide a charter for the city of Buffalo

TITLE VIII

ARTICLE I

DEPARTMENT OF PUBLIC INSTRUCTION

Section 290 Until otherwise provided by the council, the department of public affairs shall include within its jurisdiction the matter of public instruction, of which a board of education shall be the head. Such board shall consist of not less than five members, and as many more as the council shall by resolution determine, one of whom shall be a woman. The members of the board shall serve without pay. Under the control of the council, they shall have charge of the public schools, their property, expenditures and affairs. The superintendent, selected by the council, shall have the immediate supervision of the schools, the hiring and discharge after a hearing of teachers in accordance with the provisions of this charter, or the rules adopted by the board of education, and subject to the general ordinances and regulations adopted by the council, and shall have the powers now possessed by the superintendent of education, not inconsistent herewith.

§ 291 The city has power to establish, maintain and regulate public schools. The city shall be, by ordinance, divided into school districts, and from time to time redivided, and in each district there shall be maintained one or more primary or grammar schools. Such schools shall be open and free to all persons between five and twenty-one years of age, residing within their respective districts. The city may maintain and regulate one or more high schools, and it may also maintain and regulate schools for manual and technical training, into which may be admitted pupils who shall possess the qualifications prescribed by ordinance. The high school shall share in the literature fund of the State, and in all appropriations to academies. The primary and grammar schools shall share in the school fund of the State, and in the appropriations made to public schools.

§ 292 All expenses of the school department shall be included in and paid out of the general fund. The council is hereby authorized to embrace in its estimate a sum not exceeding three hundred and fifty thousand dollars annually, which shall be used solely for the purchase of school lots, and the erection, enlargement, repairs and furnishing of school buildings. It shall be lawful for the city to raise an amount of money not exceeding three hundred thousand dollars to erect school buildings and to furnish the same and for such purpose it shall be lawful for

¹ The provisions of the charter provided by chapter 217 of the Laws of 1914 become operative January 1, 1916. Inconsistent provisions of the former charter (chapter 105 of the Laws of 1891, post, p. 46), will then be superseded by it.

the council of said city by a vote of four-fifths of its members from time to time to authorize the issue of the bonds of said city to an amount not to exceed in the aggregate three hundred thousand dollars, bearing interest at the rate of not more than five per centum per annum, interest to be paid semiannually; said bonds to be due in not less than twenty nor more than fifty years from their date and to be sold at not less than their par value.

§ 293 New teachers shall be selected for employment in the different schools after this act takes effect from lists prepared as to grades and qualifications of applicants in the manner provided by resolution of the council; all teachers shall be hired for the period of time and at the compensation and upon the terms and conditions provided by ordinance. The courses of study and systems of education shall be established by ordinance or in such other manner as the council may prescribe, and until provided shall remain as now established.

§ 294 The council shall be the trustees and have the general care and management of the public school teachers retirement fund as now existing and shall have and possess all the powers relating thereto now possessed by the board of trustees thereof; the council is authorized to establish such rules and regulations for the administration and investment of said fund as it may from time to time deem best. Investment of the fund may be made in the name of the council, in bonds of the United States or of the State of New York or of any municipal corporation of the State. The fund shall consist of the moneys composing it at the time this act takes effect, and moneys to be hereafter paid to it in accordance with the provisions of this act.

§ 295 The public school teachers retirement fund, created by this act, shall consist of the following moneys, to wit:

1 All moneys comprising the public school teachers retirement fund at the time this act takes effect.

2 An amount not less than one per centum per annum, nor more than two per centum per annum of the respective salaries paid to the superintendent of education, assistant superintendent, supervisors, directors, principals and teachers, who are regularly employed in the public schools of Buffalo or in the department of public instruction of said city, to be taken from said salaries in four equal quarterly installments in the manner hereinafter described.

3 Any moneys which may be appropriated for said fund by the council of said city. And the said council is hereby authorized and empowered in its discretion to appropriate annually for said fund and to include in its annual estimate a sum of money which shall not exceed, however, the amount deducted for the previous school year from the salaries of the superintendents, supervisors, directors, principals and teachers, as provided in the foregoing subdivision 2 of this section.

4 All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund.

5 All moneys which may be derived by such other methods as may be duly and legally devised for the increase of said fund.

§ 296 All persons employed in the department of public instruction and hereinafter mentioned as contributors to said fund, shall become annuitants under this act in manner following, to wit: Any female teacher, officer or employee of the department of public instruction enumerated in section 295 of this act who shall have served for twenty years, and any male teacher, officer or employee of the department of public instruction enumerated in section 295 of this act who shall have served for twenty-five years, may be retired by the board of trustees on the recommendation of the superintendent of education and become an annuitant of this fund during life, if such teacher, officer or employee of the department of public instruction enumerated in section 295 of this act has become permanently incapacitated for further efficient service; provided, however, that four-fifths of such service shall have been rendered in the public schools or department of public instruction of the city of Buffalo, and any female teacher, officer or employee of the department of public instruction enumerated in section 295 of this act who shall have served thirty years and any male teacher, officer or employee of the department of public instruction enumerated in section 295 of this act who shall have served thirty-five years, shall have the right to return and become an annuitant of said fund during life, provided, however, that four-fifths of such service shall have been rendered in the public schools or department of public instruction of said city. In case any teacher, officer or employee of the department of public instruction shall fail to be reappointed after having served such period of time as would entitle him or her to the benefits of said fund under the provisions of this act, such teacher, officer or employee shall, notwithstanding such termination of service, receive the annuity hereby provided. But in case any such teacher, officer or employee shall be removed or dismissed from service, or fail of reappointment, by reason of misconduct, charged and established at the time of such termination of service, such teacher, officer or employee shall not be entitled to receive the benefits of said fund, but shall be entitled to receive forthwith, without interest, all moneys paid into said fund by him or her during such period of service.

§ 297 Any teacher, officer or employee so retired or retiring shall receive as an annuity an amount equal to one-half of the annual salary paid to such teacher, officer or employee at the time of such retirement; said annuity shall not exceed the sum of eight hundred dollars per annum, which shall be paid by the said board of trustees out of the fund created in accordance with this act.

§ 298 1 All persons who are annuitants, as provided by this act, may become participants in full benefits provided that each such person pay into the public school teachers retirement fund such additional sum as will make his or her total payments equal to forty per centum of his or her salary at the time of his or her retirement.

2 No person shall become an annuitant under this act until he or she shall have paid into the retirement fund an amount equal to forty per centum of his or her annual salary at the time of retirement; provided, however, that no person shall be required to pay into said fund more than fifteen hundred dollars.

§ 299 When in its judgment the available fund shall be inadequate fully to carry out the provisions of this act, said council is hereby given the power to use both the principal and the income of said fund for the payment of annuities hereinbefore mentioned, and shall have power to reduce from time to time the amount of all annuities; provided, that such reduction shall be at the same rate in all cases.

§ 300 If at any time a teacher, officer or employee of the department of public instruction enumerated in section 295 who shall be willing to continue to serve shall not be reelected or reemployed, or shall be discharged before the time when he or she would under the provisions of this act be entitled to an annuity, then such teacher shall be paid back all the money, without interest, which may have been deducted from his or her salary under the provisions of this act.

§ 301 Deductions from salaries of teachers, officers or employees shall be made quarterly at the following rate, to wit: One per centum per annum of the salary of each of the persons enumerated in the foregoing subdivision 3 of section 295 until such person shall have reached the maximum salary of the class or grade in which he or she is employed; and two per centum per annum thereafter; provided, however, that no person shall be required to pay into said public school teachers retirement fund more than the sum specified in section 298.

§ 302 The superintendent of education shall, quarterly, in making the payrolls for the school department or the persons entitled to share in the fund hereby created, deduct a sum not exceeding the amount or proportion prescribed in section 301 from the salary of each of such persons, and shall certify the amount of such deductions and the names of the persons from whose salaries such deductions shall have been made; and such certificate shall accompany the payroll, and a warrant for the amount of the deductions so certified shall be drawn payable to the order of the city treasurer, who shall retain the same as a part of the fund, subject to the disposal of the council.

§ 303 The treasurer of the said city shall be the custodian of said fund and he shall execute a bond to the city with good and sufficient sureties to be approved by the council, conditioned for the faithful performance of the duties of his office. Such bond shall be filed in the office of the clerk of the city, and in case of a breach of the same or the conditions thereof, suit may be brought on the same in the name of said city for the use of the council or of any person or persons injured by such breach.

§ 304 The word "teacher," as used in this act, shall include all employees of the department of public instruction enumerated in subdivisions 2 and 3 of section 295 of this act.

Chapter 105, Laws of 1891

An act to revise the charter of the city of Buffalo

TITLE XII

DEPARTMENT OF PUBLIC INSTRUCTION

Section 324 The city has power to establish, maintain and regulate public schools.

§ 325 The city shall be, by ordinance, divided into school districts, and from time to time, redivided, and in each district there shall be maintained one or more primary or grammar schools.

§ 326 Such schools shall be open and free to all persons between five and twenty-one years of age residing within their respective districts.

§ 327 The city may maintain and regulate one or more high schools, it may also maintain and regulate schools for manual and technical training, into which may be admitted pupils who shall possess the qualifications prescribed by ordinance.

§ 328 The high schools shall share in the literature fund of the State, and in all appropriations to academies. The primary and grammar schools shall share in the school fund of the State, and in the appropriations made to public schools.

§ 329 All expenses of the school department shall be included in and paid out of the general fund. The comptroller is hereby authorized to embrace in his estimates a sum not exceeding two hundred and fifty thousand dollars annually, which shall be used solely for the purchase of school lots and the erection, enlargement, repairs and furnishing of school buildings. It shall be lawful for the city to purchase or acquire lands for school purposes and to erect, equip and furnish buildings thereon and to raise money for either or any of such purposes by issuing the bonds of the city in such amounts and payable at such times and places and bearing such rate of interest as the common council shall, from time to time, determine by resolution adopted by a vote of two-thirds of the members elected to each of the boards composing said common council; said bonds, however, to be due in not more than fifty years from their date and to be sold at not less than their par value and the accrued interest thereon. (*As amended by L. 1893, ch. 345; L. 1899, ch. 586; L. 1913, ch. 13.*)

§ 330 The superintendent of education shall be at the head of this department. He shall from time to time recommend to the common council the course of study to be pursued in the different public schools, and such measures as will, in his judgment increase the usefulness and efficiency of the schools. He shall select all new teachers to be employed in the different schools, after this act shall take effect, from among the names from time to time certified to him, by the board of school examiners, except as hereinafter provided. He shall hire all teachers for the period of time, and at the compensation, and upon the terms and conditions provided by ordinance. He shall see that the courses of study and systems of education established by ordinance are observed. If none be established by

ordinance, he shall direct the courses of study and systems of education to be pursued. The teachers shall be subject to his orders and direction. He may suspend, and for cause, and after a hearing, with the concurrence of the mayor, dismiss any teacher. He shall, on the second Monday in December of each year, make a full and comprehensive report to the common council of the condition of the schools up to the thirtieth day of June Preceding. He shall appoint a citizen, who shall be well versed in the German as well as the English language, and whose duty it shall be to superintend the teaching of the German language in the public schools, and who shall also act, when not otherwise employed, as secretary to the superintendent. Nothing in this act contained shall be construed to authorize the appointment of more than one clerk for said department, unless authority therefor shall be given by the common council. All public school janitors provided by ordinance shall be appointed by said superintendent of education, and may be removed by him at his pleasure. (*As amended by L. 1905, ch. 109.*)

§ 331 The mayor shall, within thirty days after this act shall take effect, appoint five citizens of Buffalo, who shall be known and designated as "the board of school examiners." They and their successors in office shall each, before entering upon the performance of the duties of an examiner under this act, qualify in the manner prescribed for officers of the city government.

§ 332 The first examiners shall be appointed respectively one for one year, one for two years, one for three years, one for four years, and one for five years, from and after the dates of their respective appointments, unless sooner disqualified or removed, as hereinafter provided. The city clerk shall indorse, upon the oath of office of each examiner appointed as aforesaid, the date on which his term of office expires, and shall, at least thirty days before the expiration of such term, notify the mayor in writing of the name of the examiner whose term is to expire in that year. The mayor shall, on the expiration of the term of any examiner, appoint an examiner to succeed the one whose term shall then expire, and who shall hold office for the term of five years, unless sooner removed or disqualified as herein provided.

§ 333 The mayor may at any time suspend, and for cause, and after a hearing remove any examiner appointed under this act. Whenever any one of the examiners dies, resigns, is removed, or in any manner becomes disqualified to serve before the expiration of his or her term of office, the said office shall thereupon become vacant, and the mayor shall, within thirty days after receiving notice of such vacancy from the secretary of the board of examiners, appoint another qualified citizen to fill such vacancy, as provided heretofore for regular appointments, who shall hold office for the unexpired term of such examiner, unless sooner removed or disqualified.

§ 334 The examiners appointed under this act shall hold at least one stated meeting in each month. At the first meeting of the examiners, which must be held within fifteen days after their appointment, and annually thereafter, the examiners shall choose one of their number to act and be known as chairman,

who shall preside at all sessions of the board. In case of the absence or inability of the chairman, the remaining examiners shall elect one of their number as chairman pro tempore to preside at any session. Three of their number shall constitute a quorum for the transaction of business. They shall also at their first session, held as herein provided, appoint a secretary who shall perform such duties as may be designated by the board and who shall continue in office during the pleasure of the board. It shall be the duty of the board at the first monthly meeting of each school term to assign certain schools to the different members of the board for visitation and inspection during said school term, and to change the said assignments each term, to the end that all the schools shall be visited and inspected by the board at least once in each term. (*As amended by L. 1901, ch. 127; L. 1908, ch. 336.*)

§ 335 Any person hereafter desiring to secure a position as teacher in any of the public schools of the city shall apply to the secretary of the board, who shall thereupon furnish to such applicant a blank application, approved as to form by the board; the applicant shall fill out and sign said blank, stating in which of the three grades of teachers, hereinafter provided, he or she desires to be appointed. Such applicants¹ shall then be presented to the board, which shall after receiving the same, properly filled out and signed as aforesaid, notify each applicant of the next time and place of holding the examination of applicants for positions as teachers hereinafter provided.

§ 336 For the purposes of this act the teachers in all public schools in the city are hereby divided into the following grades designated, respectively:

- 1 High school teachers.
- 2 Principals of grammar and primary schools.
- 3 Assistant teachers in grammar and primary schools.
- 4 Teachers in special subjects.

The superintendent shall, as soon as practicable after this act shall take effect and not later than thirty days thereafter, designate the subjects upon which applicants for teachers in their respective grades shall be examined, and prescribe the scope and limits of such examinations. The board of examiners shall, from time to time, prepare written or printed questions upon such subjects, within the scope or limits prescribed as aforesaid, which shall be used in the written examinations of such applicants as hereinafter provided. The superintendent may from time to time, as he deems necessary, change the subjects and the scope of such examinations. (*As amended by L. 1899, ch. 627.*)

§ 337 The examiners shall hold stated public examinations at such times as they may designate and at least twice in a year, of all the applicants who have filed their applications with the secretary, as hereinbefore provided. They shall cause due notice of the time and place of holding such examinations and the grades of teachers to be examined, to be published twice a week for four weeks,

¹ So in the original.

commencing six weeks prior to such examination, in three of the daily newspapers of the city, and no examination shall be held by them unless so noticed. At the time of holding such examinations, they may first examine the applicants orally, for the purpose of ascertaining their physical and moral fitness for teaching. The board shall have power to determine what qualifications shall be required of applicants who desire to try the examinations for teachers' positions in the high school and special teachers' grades. No applicant in the principals' or in the assistant teachers' grades shall be admitted to the written examination hereinafter provided for, unless he or she has had (a) successful experience in teaching for at least three years, or, in lieu thereof was (b) graduated from a high school or academy having a course of study of not less than three years, said course being approved by the board of school examiners of the city of Buffalo, or was graduated from some institution of learning of equal or higher rank, approved by said board, and who, subsequent to such graduation in either case, was graduated from a school or class for professional training of teachers, having a course of study approved by said board, or (c) who was graduated from a normal school for the training of teachers, approved by said board. (*As amended by L. 1908, ch. 336.*)

§ 338 Each applicant who shall appear upon such oral examination to possess the moral, physical and general qualifications essential and requisite to make a good practical teacher, shall then be subjected by the examiners to a written examination upon the subjects prescribed as aforesaid for the grade of teachers in which he or she seeks to qualify, by writing out, under the direction and supervision of the examiners, the answers to the questions on the subjects prepared as hereinbefore provided. Before beginning such written examinations, each applicant shall be required to select an envelop containing duplicate numbered cards, in such a manner that no one of the examiners shall know what number any applicant has. No two applicants will be furnished with the same number. Each applicant shall write his or her name upon such cards, and sign his or her examination paper with the number on such card, omitting the name, and place one card in a blank envelop and seal the same and deposit it in a box to be provided by the examiners before examination, retaining the duplicate card. At the close of the examination each applicant shall hand his or her examination paper, folded in such a manner as to conceal the number so signed, to the chairman of said examiners. The papers shall be examined by the examiners and they shall, according to a uniform plan or standard, to be agreed to by them, mark on each paper the percentage which the applicant writing the same has passed, between one and one hundred inclusive, and after the papers are so marked the envelops containing the name of the applicant, and the numbers corresponding with their respective papers, shall be opened by the secretary in the presence of the board, and the names of the applicants indorsed upon their respective papers. The said examiners shall have power, according to a uniform plan or standard, to determine the relative value of the subjects upon which each applicant is examined. All such examination papers, together with the applications of all who try the

examinations, shall be filed and preserved in the office of the superintendent, for at least three years after they are so filed, during which time they shall be open to public inspection. (*As amended by L. 1899, ch. 627.*)

§ 339 The candidates in the written examination in the high school teachers' grade shall be required to pass at least seventy per centum in each subject included within the group of subjects as shall be designated by the superintendent of education of the city of Buffalo. The candidates in the principal's, assistant teachers', and special grades shall be required to attain a general average in all subjects of at least seventy per centum. The board of school examiners shall have power to fix a standard of each subject in these grades. The secretary shall prepare a list of all those who have passed according to the regulations above mentioned, and he and the chairman shall certify such list to the superintendent, stating for which grade of teachers they were examined, and shall furnish to each applicant, who has so passed, a certificate signed by him and the chairman, stating the grade of teachers for which the applicant was examined, and that, in the judgment of the examiners, the person so examined is a person of good moral character, and qualified to teach in such grade. This list shall be kept by the superintendent as a list of eligible candidates for three years from which to select teachers, and no teachers not employed in the public schools at the time when this act shall take effect shall thereafter be appointed or employed as a teacher in such schools, unless he or she has undergone the examination herein provided for, and holds such a certificate. In the employment of teachers, under this act, preference shall be given to residents of Buffalo. (*As amended by L. 1908, ch. 336.*)

§ 340 Nothing contained in this act shall in any manner affect or prohibit the reemployment of any teacher or teachers employed in said schools at the time when this act shall take effect, and they may be so appointed or reemployed without undergoing the qualifying examination provided for herein, in the discretion of the superintendent, as he has heretofore employed them.

§ 341 All new teachers appointed under the provisions of this act shall be first appointed on probation for six months before they shall be regularly employed as hereinbefore provided. Any teacher so employed shall receive the same salary for such period of probation as if regularly employed.

§ 342 The financial officers of the city are hereby prohibited from paying any salary to any person appointed a teacher in the public schools in violation of the provisions of this act.

§ 343 Any person who fails to pass any examination as high as the standard of seventy per centum may at any time after the expiration of three months, and within one year from the time he or she last tried such examination, apply to the secretary for admission to the next succeeding examination of applicants for teachers in the same grade for which he or she was last examined, and he or she shall be admitted to such examination on the same basis as other applicants, without any further or different application, and without any further certificate or proof as to good moral character unless required to furnish the same by the examiners.

§ 343-a Any candidate for an assistant teacher's grade certificate, who in any one examination attains the required percentage in every subject included in the examination except one, may, after applying to the secretary for admission to the next succeeding examination for candidates for an assistant teacher's grade certificate, try the examination in the one subject in which he or she had previously failed; and upon attaining the necessary percentage in said subject, such candidate shall be rated on the same basis as other candidates successful in that examination, and the name of such candidate shall be included in the list of teachers eligible to appointment in the grade of assistant teacher. (*As added by L. 1911, ch. 386.*)

§ 344 The examiners may prepare, adopt, and promulgate such rules or regulations as they may deem fit and proper, not inconsistent with any of the provisions of this act, for the conduct and management of their examinations, and the government of their meetings, and any rules or regulations which will aid them in carrying out the provisions of this act. But all rules and regulations pertaining to the examinations oral or written shall be uniform.

§ 345 The secretary shall keep a record of all their proceedings, which shall contain a list of all the applicants certified to the superintendent as eligible for positions as teachers, and the grades in which they have passed as well as all matters necessary for the information and the use of the board and the superintendent.

§ 346 The board shall make an annual report of their proceedings to the common council, on the second Monday in December in each year, which shall contain a statement in regard to the general condition of the schools as ascertained by their inspection, and a statement of the practical workings and effect upon the public schools of the system of examinations provided for by this act, and any suggestions which they may deem proper as to the improvement of such rules, and for the more efficient accomplishment of the purposes of this act.

§ 347 Any person who shall wilfully and corruptly by himself, or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect to his or her right of examination, according to the provisions of this act or the rules and regulations prescribed pursuant thereto, or who shall wilfully, corruptly, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined pursuant to the provisions of this act, or aid in so doing, or who shall wilfully or corruptly make any false representations concerning the same or concerning the persons examined, or who shall wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, shall, for each and any of said offenses, be deemed guilty of a misdemeanor.

§ 348 The city shall provide a suitable place for the meetings of the examiners, and also a place for holding the examinations, and shall furnish all necessary stationery and other supplies for the board. The expenses incurred by the board in carrying out the provisions of this act, including salaries, shall be audited and

paid like other accounts against the city, and shall be included in the expenses of the school department. (*As amended by L. 1892, ch. 22; L. 1894, ch. 33.*)

§ A The mayor of the city of Buffalo, the superintendent of education, the chairman of the board of school examiners, the president of the Buffalo Schoolmasters Association, and the president of the Women Teachers Association shall constitute a board of trustees who shall have general care and management of the public school teachers retirement fund created by this act. (*As added by L. 1896, ch. 928; and amended by L. 1905, ch. 192.*)

§ B The said board of trustees is empowered to invest said retirement fund in the name of the said board in bonds of the United States, or of the State of New York, or of any municipal corporation in the State of New York, and to make payment from said fund of annuities granted in pursuance of this act, and to take all necessary and proper action in the premises, and from time to time establish such rules and regulations for the administration and investment of said fund as it may deem proper. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ C The public school teachers retirement fund, created by this act, shall consist of the following moneys, to wit:

1 All moneys comprising the public school teachers retirement fund at the time of the passage of this act.

2 An amount not less than one per centum per annum, nor more than two per centum per annum of the respective salaries paid to the superintendent of education, assistant superintendents, supervisors, directors, principals and teachers who are regularly employed in the public schools of Buffalo or in the department of public instruction of said city, to be taken from said salaries in four equal quarterly installments in the manner hereinafter described.

3 Any moneys which may be appropriated for said fund by the common council of said city. And the said common council is hereby authorized and empowered in its discretion to appropriate annually for said fund and to include in its annual estimate a sum of money which shall not exceed, however, the amount deducted for the previous school year from the salaries of the superintendents, supervisors, directors, principals and teachers, as provided in the foregoing subdivision 2 of this section.

4 All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund.

5 All moneys which may be derived by such other methods as may be duly and legally devised for the increase of said fund. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ D All persons employed in the department of public instruction and hereinbefore mentioned as contributors to said fund, shall become annuitants under this act in manner following, to wit: Any female teacher, officer or employee of the department of public instruction enumerated in section C of this act who shall have served for twenty years, and any male teacher, officer or employee of the department of public instruction enumerated in section C of this act who shall

have served for twenty-five years, may be retired by the board of trustees on the recommendation of the superintendent of education and become an annuitant of this fund during life, if such teacher, officer or employee of the department of public instruction enumerated in section C of this act has become permanently incapacitated for further efficient service; provided, however, that four-fifths of such service shall have been rendered in the public schools or department of public instruction of the city of Buffalo. And any female teacher, officer or employee of the department of public instruction enumerated in section C of this act who shall have served thirty years and any male teacher, officer or employee of the department of public instruction enumerated in section C of this act who shall have served thirty-five years, shall have the right to retire and become an annuitant of said fund during life, provided, however, that four-fifths of such service shall have been rendered in the public schools or department of public instruction of said city. In case any teacher, officer or employee of the department of public instruction shall fail to be reappointed or reelected after having served such period of time as would entitle him or her to the benefits of said fund under the provisions of this act, such teacher, officer or employee shall, notwithstanding such termination of service, receive the annuity hereby provided. But in case any such teacher, officer or employee shall be removed or dismissed from service, or fail of reappointment, by reason of misconduct, charged and established at the time of such termination of service, such teacher, officer or employee shall not be entitled to receive the benefits of said fund, but shall be entitled to receive forthwith, without interest, all moneys paid into said fund by him or her during such period of service. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ E Any teacher, officer or employee so retiring or retiring shall receive as an annuity, an amount equal to one-half of the annual salary paid to such teacher, officer or employee at the time of such retirement, said annuity to be paid quarterly, provided, however, that such annuity shall not exceed the sum of eight hundred dollars per annum, which shall be paid by the said board of trustees out of the fund created in accordance with this act. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ F 1 All persons who are annuitants, as provided by chapter 928 of the Laws of 1896, may become participants in the full benefits of said act as hereby amended, provided that each such person pay into the public school teachers retirement fund such additional sum as will make his or her total payments equal to forty per centum of his or her salary at the time of his or her retirement.

2 No person shall become an annuitant under this act until he or she shall have paid into the retirement fund an amount equal to forty per centum of his or her annual salary at the time of retirement; provided, however, that no person shall be required to pay into said fund more than fifteen hundred dollars. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ G When in their judgment the available fund shall be inadequate fully to carry out the provisions of this act, said board of trustees is hereby given the

power to use both the principal and the income of said fund for the payment of annuities hereinbefore mentioned, and shall have power to reduce from time to time the amount of all annuities; provided, that such reduction shall be at the same rate in all cases. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ H If at any time a teacher, officer or employee of the department of public instruction enumerated in section C of this act who shall be willing to continue to serve shall not be reelected or reemployed, or shall be discharged before the time when he or she would under the provisions of this act be entitled to an annuity, then such teacher shall be paid back all the money, without interest, which may have been deducted from his or her salary under the provisions of this act. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ I Deductions from salaries of teachers, officers or employees shall be made quarterly at the following rate, to wit: one per centum per annum of the salary of each of the persons enumerated in the foregoing subdivision 3 of section C until such person shall have reached the maximum salary of the class or grade in which he or she is employed; and two per centum per annum thereafter; provided, however, that no person shall be required to pay into said public school teachers retirement fund more than the sum specified in the foregoing section F. (*As added by L. 1909, ch. 554.*)

§ J The superintendent of education shall, quarterly, in making the payrolls for the school department or the persons entitled to share in the fund hereby created, deduct a sum not exceeding the amount or proportion prescribed in the foregoing section I from the salary of each of such persons, and shall certify the amount of such deductions and the names of the persons from whose salaries such deductions shall have been made; and such certificate shall accompany the payroll, and a warrant for the amount of the deductions so certified shall be drawn payable to the order of the city treasurer, who shall retain the same subject to the disposal of the said board of trustees hereinbefore mentioned. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ K The treasurer of said city shall be the custodian of said fund and he shall execute a bond to the city with good and sufficient sureties to be approved by said board of trustees, conditioned for the faithful performance of the duties of his office. Such bond shall be filed in the office of the clerk of the city, and in case of a breach of the same or the conditions thereof, suit may be brought on the same in the name of said city for the use of said board or of any person or persons injured by such breach. The said treasurer shall report to the said board of trustees the amount and condition of said fund on June thirtieth of each year. (*As added by L. 1896, ch. 928; and amended by L. 1909, ch. 554.*)

§ L The word "teacher," as used in this act, shall include all employees of the department of public instruction enumerated in subdivisions 2 and 3 of section C of this act. (*As added by L. 1909, ch. 554.*)

Sections 45 and 47 provide for the election of the superintendent of education for a term of four years; section 48 provides for the filing of a bond by such superintendent.

CANANDAIGUA

This city was incorporated by the Laws of 1913, chapter 371. No provision is made in the city charter for the government of the schools and such schools are therefore governed by the general provisions of the Education Law.

COHOES

Chapter 130, Laws of 1915

An act to revise the charter of the city of Cohoes

ARTICLE XIII

DEPARTMENT OF EDUCATION

- Section 200 Board of education
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Section 200 **Board of education.** The public schools of the city of Cohoes shall be under the management and control of a board of education which shall be styled "board of education of the city of Cohoes" and be composed of five school commissioners, who shall be a body corporate in relation to all the powers and duties conferred upon them by this article and who shall serve without compensation. The commissioners now in office shall continue therein until the expiration of their respective terms to which they have been appointed and said commissioners shall constitute said board of education and not more than three

of them shall belong to the same political party. Within ten days prior to the expiration of each term the mayor for the time being shall appoint the successors of each of said school commissioners and the term of all such school commissioners so appointed shall be five years from the 1st day of January following. In case of the death, resignation or removal of any commissioner during his term of office, the mayor then in office shall within ten days thereafter appoint a successor to such commissioner for the remainder of the unexpired term. Any member of said board of education may be removed from office for cause by the mayor of said city upon the complaint of any taxpayer or person aggrieved by his official misconduct, provided, always, that said member shall be served with a copy of the charges preferred against him and notice of the trial, not less than twenty days previous to the day fixed for the hearing of the matter, by leaving such copy and notice with him personally or at his residence in the city, or by sending the same to his address by mail. The accused member shall have the privilege of being represented, at his own expense, by counsel. The corporation counsel shall appear for the prosecution, at the request of the mayor.

§ 201 **Meetings of the board; quorum; custody of school libraries.** The members of said board shall hold an annual meeting on the second secular day in January in each year and shall then organize their body. The board shall also meet for the transaction of business as often as once in each month and may adjourn for any shorter time. Special meetings may be called, as often as necessary, by the president to be appointed by said board as hereinafter provided, or, in his absence or inability to act, by any two members of the board, by causing a written or printed notice signed by the president or by the members calling the same, as the case may be, to be served personally on each member, or left at his last place of residence, at least twenty-four hours before the hour of such special meeting. Such notice shall specify the object of such special meeting, the action of which shall be limited to the object so specified. The said board shall hold its meetings in the rooms in the city hall assigned to its use by the authorities having the legal custody thereof. Except as otherwise provided, three of the members of said board shall constitute a quorum for the transaction of business, and a majority of the members present shall be sufficient to carry any measure or decide any question before them, except in case of any resolution or contract appropriating money or involving the appropriation of money for any purpose, and in case of the election of any officer of the board, the appointment of a superintendent of schools, a clerk of the board, or of a change of textbooks, when it shall require in each case the affirmative vote of at least three members. Said board of education shall have the custody of the school libraries in said city and all provisions of law, now or hereafter in force, relative to school district libraries, shall apply to said board in the same manner as if its members were trustees of a school district comprising said city. The books of the common school library in said city shall remain subject to the control of said board which shall make, subject to the provisions of law, all necessary regulations respecting the management and use thereof.

§ 202 **President of board.** At the annual meeting in January in each year,

and as often as death, resignation or inability to act, shall render necessary, they shall elect one of their number president of said board, who shall hold office for one year and until his successor shall be elected, and whenever he shall be absent, a president pro tempore may be appointed. He shall preside at all meetings, exercise all powers usual to such office and be entitled to vote as other members.

§ 203 **Clerk; appointment of and duties.** The board shall appoint a suitable person as clerk of the board. A certificate of such appointment, under the hand of the president, shall be forthwith filed with the city clerk. The clerk so appointed shall hold his office at the pleasure of the board, and shall also be librarian of the library in charge of said board; and, as such clerk and librarian, shall perform all the duties which are, or may be, required by the Education Law and board of education. As librarian he shall be present at the school or city library every day in the year, Sundays and holidays excepted, at such times and such hours, not less than six in each day, as the board of education may prescribe. As clerk of the board of education, he shall keep a record of the proceedings of the board and shall prepare the same for publication. The said record, or a transcript thereof certified by the president and clerk, shall be received in all courts of justice as evidence of the facts therein set forth; and such records and all books of account, vouchers and papers of said board shall be at all times subject to the inspection of the members of said board or of the common council of the city of Cohoes, or any committee thereof or the mayor. As clerk he shall make out and submit to the board, at its stated meetings in each month, a tabulated abstract of the reports of the teachers for the preceding month. Under the supervision and direction of the superintendent of schools, he shall keep the accounts of the board in such manner as shall show, at any time, the exact state of such accounts, the balance to the credit of each fund, the expenses of each school and the cost of maintaining the schools in each building, showing the amount paid for teachers' wages, for general contingent expenses, including the cost of heating, repairing, supplies, and also the amount paid out for permanent improvements, specifying the place where such improvements have been made. He shall act as clerk of the several committees of the board, when requested by the chairman of any such committee, and shall perform all other duties required by said board. Said clerk and librarian shall receive for all his services such annual salary as the board of education may determine.

§ 204 **Superintendent of schools.** The superintendent of schools now in office shall continue therein until the expiration of his respective term and in the month of June in the year 1917, and in the same month of each fourth year thereafter, said board shall appoint a superintendent of schools of said city whose term of office shall commence on the 1st day of July in the year of his appointment, and shall continue until the 1st day of July in the fourth year thereafter, and until the appointment and qualification of his successor. In case of a vacancy in the said office of superintendent of schools, the same shall be filled by appointment, in the same manner, within one month after its occurrence, of a superintendent for the unexpired term, who shall enter upon his

duties forthwith. The superintendent of schools shall receive a salary not to exceed two thousand dollars annually, payable monthly out of the moneys or funds apportioned to said board of education, legally applicable thereto. Before any appointment of a superintendent of schools shall take effect for any purpose, a certificate in writing of such appointment, signed by a majority of the members of the board of education, then legally in office, shall be made and filed in the office of the clerk of the city of Cohoes, and the superintendent appointed shall duly take and file in the office of said clerk the constitutional oath of office.

§ 205 **Eligibility and removal of superintendent.** No person shall be eligible for appointment to the office of superintendent of schools of said city unless, within fifteen years immediately preceding his appointment, he shall have had at least five years' experience as teacher, either in the free common schools of the State of New York, or elsewhere in free common schools of equal grade and requirements, or has acted as superintendent, or principal of such schools, or taught for a like period in a college; nor unless of mature age, of good mental and bodily health and of unblemished character and reputation. No person elected superintendent of schools of the city of Cohoes shall be removed from his office except for cause, upon written charges and specifications thereof, served upon him, and after due trial before the said board of education, and conviction. On such trial counsel shall be allowed such superintendent without expense to the city of Cohoes, and the corporation counsel shall attend and act for the said board, if desired. It shall be necessary that three in number of the members of the board of education of the city of Cohoes, then duly and legally in office, shall concur in voting for the removal of said superintendent before removal can be had, and after such trial and conviction.

§ 206 **Power of board.** The said board of education shall have power, and it shall be its duty, upon the recommendation of the superintendent of schools, to fix and determine the different grades of study which shall be taught in the various departments of the several schools under its charge, and upon the like recommendation, to change the same whenever so to do will promote the best interests of the schools; and also to adopt such rules and regulations for the administration and government of the schools, and for the admission of pupils to the various departments therein, as it shall determine, with authority at any time to alter and amend the same as it may deem advisable.

§ 207 **Powers and duties of superintendent.** Said superintendent of schools shall have exclusive charge of all the teachers employed in the common schools of the city of Cohoes, and shall have exclusive power and authority to select, nominate, dismiss, transfer, discharge, suspend, fine, grade, regrade and control all of said teachers, and, in his discretion, do any and all such matters and things in and about the force and personnel of the teachers in the common schools of said city as, in his judgment, will tend to improve the efficiency of said schools and the teachers employed therein, and as will be for the benefit and welfare of the pupils in attendance at such schools. It shall be the duty of said superintendent, however, in so far as is practicable, in his selection and nomination of teachers, to select and nominate the same solely with regard to, and upon,

individual merit, and all other things being equal, to give preference, in such selection and nomination, to citizens of the city of Cohoes. Only such number of teachers as may be fixed and determined by the board of education shall be legally selected or nominated by said superintendent. Only such teachers as are qualified under the rules and regulations prescribed and contained in the Education Law of the State of New York, or prescribed by the Superintendent of Public Instruction of said State, for governing the examination and licensing and qualification of teachers, shall hereafter be eligible to selection, nomination and employment in the common schools of the city of Cohoes; provided, however, that any teacher now employed in the public schools of said city shall be eligible for such appointment and employment, and the superintendent shall prepare and at all times keep a list of all persons so as above eligible to selection, nomination and employment, and selection and nomination shall be made by him from the names upon said list; and the person or persons selected and nominated shall forthwith be by said board of education employed as a teacher or teachers in the common schools of said city. Should said board of education fail, neglect or refuse to employ the teacher or teachers so selected and nominated by said superintendent, for the space of ten days after said selection and nomination, in writing, shall be filed with said board, then and in that event, and on the expiration of said period of ten days, such written selection and nomination shall, in all things and to all intents and purposes, be equivalent to the employment by the said board of education of such teacher or teachers so selected and nominated. All selections and nominations to and for employment as aforesaid, hereafter made by said superintendent to the board of education, and employment thereunder, shall, in the first instance, be made for the term of not exceeding one year, and if, at the end of such term, it is found by said superintendent that any teacher or teachers thus nominated, selected or employed, has answered all necessary requirements respecting efficiency and capability, to his satisfaction, then said superintendent may reselect and renominate said teacher or teachers for employment by the board of education. Thereafter such teacher or teachers shall serve during good behavior and shall be removable only for cause, after a hearing by said board of education, and by the affirmative votes of a majority of said board. The provisions of this section shall apply to all teachers heretofore appointed and now in the employ of the said board of education. The present system of text or school books, now in use in the common schools of the city of Cohoes, shall not be changed or new text or school books introduced, except upon the recommendation and consent of the superintendent of schools of said city.

§ 208 **Annual estimate.** The said board of education shall annually, on or before the 1st day of December, submit to the board of estimate and apportionment of said city an itemized estimate and requisition of and for the several amounts required by it for the various matters, funds and purposes, as herein provided, connected with the maintenance of the common schools of said city. Such estimate shall be prepared with the aid of the superintendent of schools. Said board of estimate and apportionment shall consider such estimate and requisition, and shall approve and allow the same, and include it in its annual

estimate to be submitted to the common council. But said board of estimate and apportionment or said common council shall have no power to limit said board of education, in any year, to less, for the maintenance of the common schools, than the sum stated in its itemized estimate and requisition.

§ 209 **Textbooks and stationery.** The said board shall have power at all times, upon recommendation of the superintendent of schools, to determine, subject to the provisions of the law relative to changes of textbooks in schools, the textbooks which shall be used in the several departments of the public schools, and which shall be uniform, as near as may be, in those of the same grade; to supply the requisite textbooks and stationery for the use of indigent pupils; to provide the several schools under its charge with the necessary school apparatus, maps, et cetera, the expenses thereof to be defrayed out of the school moneys of the city. The tuition of the pupils of the several schools under the charge of the board shall be free to all persons between the ages of five and twenty-one years, who are residents of said city and entitled to attend the said schools.

§ 210 **Annual appropriation.** The said board shall apportion, according to the various items, matters and purposes mentioned in its said estimate and requisition, the amount to which it shall be entitled to the credit of the funds as stated in said estimate and give notice, in writing, to the comptroller and treasurer of such apportionment. No moneys shall, upon any pretext whatever, be diverted from one fund to another, after the said apportionment has been made, provided, however, that the comptroller and treasurer, by joint consent thereto, in writing, may transfer any available surplus from any one of said funds to another, upon request of the board of education, by resolution duly passed, showing, to the satisfaction of the comptroller and treasurer, the necessity of such transfer. All warrants drawn on said moneys shall specify the respective funds from which the same are payable. All moneys apportioned and set aside for the use of common schools shall be placed to the credit of the funds as stated in the last annual estimate and requisition.

§ 211 **Additional powers of board.** The said board of education shall have power, and it shall be its duty

1 To establish and organize such and so many schools, including the common schools now existing therein, as it shall deem requisite or expedient and to alter or discontinue the same.

2 To purchase sites for and to build or to lease or contract for the occupation and use of schoolhouses or rooms, and to improve the same as it shall deem proper.

3 To alter, improve and repair schoolhouses and appurtenances as it may deem advisable; but no such alterations, improvements or repairs shall be upon any building, outhouse or appurtenances, unless the same shall be owned by the city of Cohoes, or duly leased by the said board of education for a term of not less than three years.

4 To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to defray their ordinary contingent expenses

5 To have the custody and safe-keeping of the schoolhouses, outhouses, books and furniture, and to see that the ordinances of the said board in relation thereto be observed.

6 To contract with, license and employ all teachers in said schools and to remove them.

7 To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of schools in said city so far as the same shall be sufficient; and the residue thereof from the moneys authorized to be raised for that purpose by the provisions of this act.

8 To defray the necessary contingent expenses of said board, including the annual salaries of the clerk and the superintendent of the schools, and the expenses of said superintendent of schools and any principal or teacher of such schools while attending a convention when the same is authorized by said board.

9 To have in all respects the superintendence, supervision and management of the public schools in said city, and from time to time to adopt, alter, modify and repeal as it deem expedient, rules and regulations for their organization, government and instruction; for the reception of pupils, and their transfer from one school to another, and generally for the promotion of their good order, prosperity and public utility.

10 Whenever, in the opinion of the said board, it may be advisable to sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the common council.

§ 212 **Title of schoolhouses.** The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances, and all other school property in this article mentioned shall be vested in the city of Cohoes, and the same while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the public schools of the said city, whether the same shall be transferred in terms to said city by its proper style or any other designation, or to any person or persons or body for the use of said schools.

§ 213 **Common council may sell school property.** The common council of said city may, upon the recommendation of the board of education, sell any of the schoolhouses, lots or sites, or any other school property now or hereafter belonging to said city, upon such terms as the said board of education may deem reasonable. The proceeds of all such sales shall be paid to the treasurer of the city, and shall be by the said board of education again expended in the construction, repairs or improvements of schoolhouses, public libraries, lots, sites or school furniture, apparatus or appurtenances.

§ 214 **Ordinances for protection of property.** The said board of education shall have the power, and it shall be its duty, to pass such ordinances and regulations as may be necessary and proper for the protection, safe-keeping, care and preservation of the schoolhouses, lots, sites, appurtenances and appendages, and all necessary property belonging to or connected with the schools in said city

and to prevent wilful interruptions or disturbance of the sessions thereof; and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the existing laws relative to said city, and all such penalties shall be collected in the same manner that the penalties for the violation of the city ordinances are by law collected, and when collected shall be paid to the treasurer of the said city and be subject to the order of the board of education in the same manner as other moneys raised pursuant to the provisions of this article.

§ 215 **Annual report to common council.** It shall be the duty of the president of the board of education within thirty days after the close of the fiscal year to make a report to the common council showing:

1 An estimate of the number of children between the ages of five and twenty-one years residing in said city on the 30th day of June next preceding said report; the number of scholars between the ages of five and twenty-one years residing in said city, who have attended the free schools therein during the preceding year, and the number attending each school, including the evening schools.

2 The number of scholars not residing in said city but who have attended the common schools therein during the same time.

3 The amount of public moneys received by the treasurer applicable to teachers' wages, and the amount applicable to school libraries.

4 The amount of moneys appropriated or set apart by the common council for the use of said schools as required by the provisions of this article, and the portions thereof appropriated to the respective funds.

5 The moneys received from the sale of city property.

6 All other sums received by the treasurer and appropriated to the purposes of the common schools.

7 The manner and purposes for which such sums of money shall have been expended, specifying the amount paid under each head of expenditure and the amount remaining unexpended, if any, in each fund respectively.

§ 216 **Deposit and disbursement of moneys.** All moneys raised by virtue of this article which the board of education is authorized to expend, shall be deposited with the treasurer of the city to the credit of the respective funds under the control of the board of education as provided by law and shall be drawn out in pursuance of a resolution of said board and audited by the comptroller as provided in this act for the payment of other claims against the city of Cohoes. Said board of education, in all its expenditures and contracts, shall have reference to the amount of moneys which shall be subject to its order for any specific object during the then current year, and shall not exceed the amount so provided. In case any debt shall be incurred, or contract made by said board of education, or any members thereof, which shall require the expenditure of a greater sum than shall have been provided or appropriated for the use of the public schools, the city shall not be liable for the same, but the members of the board of education voting therefor, or either of them, shall be personally liable therefor to the party entitled to payment.

§ 217 **Nonresident pupils.** The said board shall have power to allow the children of persons not residents within the city to attend any of the schools of said city, under the care and control of said board upon such terms as the board shall by resolution prescribe.

§ 218 **Annual visitation of schools.** It shall be the duty of each school commissioner to visit all the public schools under the direction of the board, at least once in each year, and the said board shall also provide that each of said schools shall be visited by a committee of three or more members of the board at least twice in each year.

§ 219 **Raising of money for extraordinary or special purposes.** It shall be the duty of the common council, upon the recommendation of the board of education, to take all necessary proceedings in the manner provided by this act, for the raising of money for extraordinary or special purposes, to raise money to build or purchase schoolhouses or public libraries and to purchase and improve lots or sites therefor. The money so raised, in case it shall be voted by the taxpayers, as provided by this act, shall be paid to and kept by the treasurer of the city distinct from other money, and shall be controlled and appropriated by the board of education exclusively to the object or objects for which it shall be raised; and no such money shall be appropriated or expended except by resolution of said board.

§ 220 **Contracts for work and material.** Every contract for work, materials and supplies, or either of them, to be performed or furnished for the benefit and use of said board of education, where the value of such work, materials and supplies, or either of them, shall exceed, in any contract, the sum of one hundred dollars, shall be awarded by said board to the lowest bidder therefor who shall provide satisfactory security for the faithful performance of his duty under such contract. Whenever it shall be necessary for said board of education to receive bids under the provisions of this section, it shall give reasonable public notice, stating the nature of the work, materials and supplies, or either of them required, and specifying the time and place at which such bids will be received by it and the security required, which shall accompany each bid, but said board of education shall reserve the right to reject any and all bids presented pursuant to this section, when public interest so requires. This section shall not apply to contracts for services of teachers or of the superintendent or clerk of said board of education.

§ 221 **Organization of teachers retirement fund.** The president of the board of education, the mayor and five teachers of the public schools of the city of Cohoes, of which teachers two shall be school principals, shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by chapter 332 of the Laws of 1908. In the month of June following the passage of this act, and in the same month in each year thereafter, a meeting of all teachers, supervisors, superintendents and principals of the public schools of the city of Cohoes shall be called in said city by the superintendent of schools of the city of Cohoes, at which time and place two school principals and three teachers, then in active service, shall be chosen by

the assembled teachers, supervisors, superintendents and principals, to serve for a term of one year upon the board of trustees hereinbefore mentioned. The said board of trustees is empowered to make payment from said fund of the annuities granted in pursuance of this act; to take all necessary action in the premises and to make such by-laws, rules and regulations as may be necessary or proper; and to provide for the administration and investment of said fund as it may deem best, except that no part of said fund shall be invested in any manner otherwise than as the savings banks of the State are permitted by law to invest their funds. All vacancies occurring otherwise than by expiration of term in the office of either or any of the five members of the said board of trustees chosen from the teachers shall be filled until the end of the official year by the appointment of the said board of trustees. In case any trustee chosen or appointed as aforesaid shall cease to be such teacher or principal, such trusteeship shall at once become vacant.

§ 222 **Creation of fund.** The public school teachers retirement fund shall consist of the following moneys with interest or income therefrom to wit:

a A sum of money equal to three per centum of the amount appropriated each year for the salaries of superintendents, supervisors, principals and teachers employed in the public schools of the city of Cohoes. Said sum shall be taken from the excise moneys to which the city of Cohoes may annually be entitled by virtue of the provisions of the liquor tax law of the State of New York, or from any other source that the common council may direct. Said sum shall be paid into the said pension fund and duly credited thereto by the proper officials of the said city.

b One per centum of the respective salaries paid to the superintendents, supervisors, principals and teachers employed in the public schools in said city regularly; except that the amount deducted from any one salary shall not exceed ten dollars in any one year.

c All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal or teacher employed in the public schools of said city for an absence from duty for any excuse; or in the case of the employment of a substitute, the excess of the salary of the regular teacher, principal, supervisor or superintendent over and above the amount paid to the substitute. Such forfeitures, deductions or excesses shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

d All donations, legacies and gifts which shall be made to said fund, and all moneys which shall be obtained from other sources or by other means devised for the increase of said fund by said board of trustees or with their consent.

§ 223 **Collection of assessments.** The board of education of the city of Cohoes in auditing the accounts for salaries of the superintendents, principals, supervisors and teachers hereinbefore mentioned shall deduct from each and every account for salary said one per centum from each and every amount payable in the period covered by the said account, and shall certify the amount of said deductions and the names of the persons from whose salaries said deductions have been made; and a warrant for the total amount of the deductions so certified

shall be drawn payable to the treasurer who shall retain the same subject to the disposal of said board of trustees, as hereinafter provided.

§ 224 **Treasurer of fund.** The treasurer of the city of Cohoes shall be the custodian of said fund and shall pay out the same only upon warrants signed by the president of the board of trustees of said fund and countersigned by such other officers as may be provided by the by-laws of said board of trustees; and no payment from said funds shall be made except upon resolution of said board passed by the concurrent vote of at least four members.

§ 225 **Retirement of teachers.** The superintendent of schools of the said city, on the recommendation of said board of trustees, shall have the power to retire from service to become an annuitant under this act any supervisor, principal or teacher of the public schools of said city who shall request retirement and who shall have served in such capacity or capacities for an aggregate period of thirty years, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of said city of Cohoes; or any such supervisor, principal or teacher who is mentally or physically incapacitated for the performance of duty, and who has been engaged in the work of teaching or supervising for a period aggregating twenty years, not less than fifteen of which shall have been in the public schools which are now or hereafter may be located within the boundaries of the said city. The board of education of the city of Cohoes, on the recommendation of said board of trustees, shall have the power to retire from service to become an annuitant under this act any superintendent of schools, on the same terms and conditions as are, in this section, made to apply to any supervisor, principal or teacher. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for a retirement after thirty years of service as the total number of years of service of such person bears to thirty years.

The said superintendent of schools of the city of Cohoes shall have power to retire from service to become an annuitant under this act any supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of forty years, provided that not less than fifteen of such years' service shall have been rendered in the public schools which are now or may hereafter be located in the boundaries of the city of Cohoes, and also provided that at the time of such retirement the retirement fund shall be adequate to pay the full annuity to which such annuitant shall be entitled. The board of education of the city of Cohoes shall have the power to retire from service to become an annuitant under this act any superintendent of schools on the same terms and conditions as are, by this section, made to apply to any supervisor, principal or teacher

§ 226 **Annuities.** Annuities paid in pursuance of this act shall be one-half of the amount of the annual salary of the annuitant at the time of retirement from service, except as provided in section 225 of this article, and except that no annuity shall be more than five hundred dollars; but if the moneys at the

disposal of the trustees of said fund be found at any time to be inadequate to fully carry out the provisions hereinabove mentioned, the trustees then shall distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

No person who shall retire or be retired to become an annuitant under this article shall be entitled to such annuity unless and until such person shall have contributed to the teachers retirement fund in pursuance of subdivision *b* of section 223 of this act, or in cash, or by accumulation of the annuity to which such person would otherwise be entitled, or by either or all of such methods, an amount equal to at least twenty per centum of his or her annual salary at the time of retirement. All annuities provided for by this act shall be payable in monthly instalments.

§ 227 **Return of money in case of dismissal.** If at any time a superintendent, supervisor, principal or teacher shall be dismissed for cause before the time when he or she would, under the provisions of this act, be entitled to an annuity, then said person shall be paid back, without interest, all the money which may have been deducted from his or her salary in pursuance of subdivision *b* of section 223 of this act.

§ 228 **Continuation of board of trustees now in office.** The board of trustees of the public school teachers retirement fund now in office shall continue therein until their successors have been appointed, and all of the moneys and funds now under the care and management of said board shall continue to be under its care and management pursuant to the provisions of this act, and nothing herein contained shall in any way prejudice or interfere with the rights of any person who has been granted an annuity by said board now in office, and any such annuitant shall continue to be entitled to the annuity directed to be paid by said board.

§ 229 **Terms of present appointive officers of board of education to continue.** The terms of the office of the superintendent of schools, the clerk of the board of education, and all persons holding either of the positions of truant officer or janitor, or employed by the board of education, in either said office or employment, when this act takes effect, shall continue under this act and subject to its provisions until legally removed and their successor or successors have been duly appointed or chosen, and qualified.

ARTICLE II

OFFICERS AND ELECTIONS

§ 5 **Officers enumerated.** The officers of the city shall be . . . five school commissioners, who shall be the members of the board of education, . . .

§ 7 **Appointive officers.** There shall be appointed by the mayor . . . five school commissioners, who shall be members of the board of education, . . .

§ 8 **Qualifications.** Every person elected or appointed to office must be an elector of the city, except the superintendent of public schools, commissioner of public works, and the city engineer. . . . If an officer ceases to be a resident of the city, or if a supervisor or an alderman ceases to be a resident of the ward

from which he is elected, his office thereupon shall become vacant. No person shall at any time hold more than one office in the city except as provided in this act; upon his acceptance of a second office, the first shall become vacant.

§ 11 **Certificate of appointment.** Every appointment to a city office must be made by a certificate in writing signed by the appointing officer, or if made by a board, by the presiding officer thereof, and filed in the office of the city clerk.

§ 12 **Official oath and undertaking.** Before entering upon his duties, any officer must take and file with the city clerk the constitutional oath of office, except the city clerk shall take and file his oath of office with the mayor. . . .

§ 13 **Restrictions; officers not to be interested in contracts.** No person shall, at the same time, hold more than one city office. Upon the acceptance by a city officer of a second city office the office first held by him shall thereupon become vacant. No member of the common council or other officer or employee of the city, or person receiving a salary or compensation from funds appropriated by the city, shall be interested directly or indirectly in any contract to which the city is a party, either as principal, surety or otherwise; nor shall any such member of the common council, city officer or employee or person, or his partner, or any agent, servant or employee of such officer, employee or person or of the firm of which he is a partner, purchase from or sell to the city, or any officer thereof, any real or personal property for the use of the city, or any board or officer thereof, nor shall he be interested, directly or indirectly, in any work to be performed for, or services rendered to or for it, or in any sale to or from said city, or to any officer, board or person in its behalf. Any contract made in violation of any of these provisions shall be void. A person shall not be deemed to be interested in a contract, purchase or sale made by a corporation with, from or to the city solely by reason of the fact that he is a stockholder of such corporation. The term "city officer" as used herein, however, shall not be deemed to include a commissioner of deeds.

§ 15 **Resignations.** Resignations of elective officers must be presented to the mayor, and of all other officers to the appointing board or officer, and such resignations must thereupon be filed in the office of the city clerk.

§ 98 **Temporary loans.** In the interval between the beginning of the fiscal year and the adoption of the annual estimate the city shall have the power to borrow money to the extent required to pay fixed salaries, the principal and interest on bonded or funded debts or other loans, the stated compensation of officers and employees and indebtedness for work performed or materials furnished under contract with the board of contract and supply, and such amount as shall be certified to it by the board of education to be necessary for the use of the common schools of the city. After the adoption of said annual estimate it shall have the power to borrow money for the payment of the debts and expenses of the city within the amounts appropriated therefor for the fiscal year, in anticipation of the receipt of the said taxes and revenues applicable to such purposes. The common council may provide for the issue of certificates

of indebtedness or revenue bonds, to be signed by the mayor and treasurer and countersigned by the comptroller, for such purposes. Such certificates or bonds, together with interest thereon to date of maturity, shall be paid out of the moneys received on account of taxes and revenues applicable to such purposes. All the provisions of this section shall apply to the interval between the fifteenth day of November, 1915 and the first day of January, 1916, and the amount borrowed for payments made during such period shall be added to the annual estimate for the year 1916 and inserted therein as an extraordinary item.

CORNING

Chapter 298, Laws of 1859

An act to encourage and promote education in the village of Corning¹

Section 1 The trustees of school district number 9, in the town of Corning, county of Steuben, shall constitute a board to be styled the board of education of the village of Corning, which shall be a corporate body, with a seal, in relation to all the powers and duties conferred upon them by this act, and shall be elected from time to time as now provided by law. A majority of the board shall constitute a quorum. The first meeting of said board shall be held on the second Wednesday of May, 1859; and the annual meetings of said board, in each year thereafter, shall be held on the first Tuesday in October in each year. At the first meeting of the board, and annually thereafter, at the annual meeting, they shall elect one of their number president of the board, and whenever he shall be absent, a president pro tempore may be appointed. The said trustees shall receive no compensation for their services, nor shall they be interested, directly or indirectly, in any contract for building or for making any improvements or repairs provided for by this act.

§ 2 The said trustees shall meet for the transaction of business as often as once in each month, and may adjourn for any shorter time. Special meetings may be called by the president, or in his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice to each member of the board, or by causing written or printed notice to be left at his last place of residence, at least twenty-four hours before the hour for such special meeting.

§ 3 The said trustees shall appoint a secretary and treasurer, who shall hold their offices during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record, or transcript thereof certified by the secretary, shall be viewed in all courts as prima facie evidence of the facts therein set forth, and such record, and all the books, accounts, vouchers, and papers of said board, shall at all times be subject to the inspection of the people of the district.

§ 4 The trustees aforesaid shall have power, and it shall be their duty, to raise from time to time, by tax to be levied upon all the real and personal estate in said district which shall be liable to taxation, as provided for by law for school purposes, as the board of education shall deem to be necessary and proper for any and all of the following purposes:

1 To purchase, lease, or improve sites for schoolhouses or sites with buildings thereon for the same purpose.

¹School district no. 9 of the town of Corning includes that part of the city of Corning lying south of the Chemung river and is organized under L. 1859, ch. 298, here given, that part of the city lying north of the Chemung river is included in school district no. 13 of the town of Corning and is organized under the general law.

2 To build, purchase, lease, enlarge, alter, improve and repair schoolhouses and their outhouses and appurtenances.

3 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, but the power herein granted shall not be deemed to authorize the furnishing with class or textbooks any scholar whose parents or guardians shall be able to furnish the same.

4 To procure fuel, and defray the contingent expenses of the common schools, including the academical department therein, and the expenses of the school library of said district, and the necessary expenses of said board, including the salary of the secretary of the board, and the compensation allowed the librarian and treasurer.

5 To pay teachers' wages after the application of public moneys which may by law be appropriated and provided for that purpose.

6 The amount raised for teachers' wages and contingent expenses shall not be less than twice nor more than six times the amount appropriated to said district, from the common school fund of the State during the previous year, nor shall there be raised in any one year for buying sites, or sites with buildings thereon, erecting and repairing schoolhouses and the appurtenances, a sum exceeding two thousand dollars, except as herein otherwise provided for. And the board of education are authorized and directed, when necessary, to borrow, in anticipation, the amount of taxes so to be raised, collected and levied as aforesaid, and to give the bonds of the district, signed by the president of the board of education and under the seal of the district, as security for the repayment of the moneys so borrowed.

§ 5 All moneys required to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to or provided for said district, whether from the school or literature funds, or under the act to establish free schools throughout the State, or otherwise, shall be paid to the treasurer of said district, who, together with the sureties on his official bond, shall be accountable therefor in the same manner as the treasurer of the county of Steuben is for moneys which come into his hands, and shall be liable to the same penalties for official misconduct.

§ 6 The treasurer shall pay out the moneys authorized by this act, to be received by him, upon drafts drawn by the president, and countersigned by the secretary of said board of education, which drafts shall not be drawn, except in pursuance of a resolution or resolutions of said board, and shall be made payable to the person or persons entitled to receive the same.

§ 7 The said board shall have power, and it shall be their duty:

1 To organize and establish such and so many common schools in said district as they may deem requisite and expedient, and to alter and discontinue the same; but nothing in this act contained shall authorize said board of education to support or contribute any moneys belonging to said district to the support of any parochial or church school in said district. (*As amended by L. 1868, ch. 82.*)

2 To purchase and hire schoolrooms or houses, lots or sites for schoolhouses,

or sites with buildings thereon, to be used as schoolhouses, and to fence and improve such sites as they may deem proper.

3 Upon such lots, and upon such sites owned by said district, to build, enlarge, alter, improve and repair schoolhouses and appurtenances as they may deem advisable.

4 To have the custody and safekeeping of the schoolhouses, outhouses, books, furniture and appurtenances, and to see that their ordinances in relation thereto are observed.

5 To contract with, license and employ all teachers in said schools, and the academical department therein, and at their pleasure to remove them.

6 To pay the wages of the teachers in said schools, out of the moneys appropriated and provided by law for the support of common schools in said district, and the wages of the teachers of the academical department out of the moneys appropriated to said department, from the income of the literature and United States deposit funds, so far as the same shall be sufficient, and the residue of the wages of the teachers in said schools and academical department, from the moneys authorized to be raised for that purpose, by section 4 of this act, by tax upon said district.

7 To defray the contingent expenses of the said common schools and academical departments, and the expenses of the school library of said district, and the necessary and contingent expenses of the board, including the annual salary of the secretary and treasurer, and librarian.

8 The said board to have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, or the reception of pupils, and their transfer from one school to another, and generally for their good order, prosperity and utility; and to have power to establish in said schools an academical department, to receive into said schools or academical department pupils residing out of said district, and to regulate and establish the tuition fees of such nonresident pupils in the several departments of said schools, and in such academical department, and to collect such fees in the name of said district. To regulate the transfer of scholars from the primary to the academical department, to direct what textbooks shall be used in said schools and academical department, to provide and keep in repair school apparatus, books for indigent pupils, furniture and appendages, fuel and other necessities for the schools and academical department.

9 To sell, whenever in their opinion it may be advisable, any of the schoolhouses, lots or sites and appurtenances, or any of the school property now or hereafter belonging to the said district. Such sale shall in no case be made, however, unless a petition setting forth the necessity or expediency thereof shall first be presented by said board, to the county court of Steuben county, and an order authorizing such sales, and specifying the terms and conditions thereof, shall be granted by said court. All moneys arising from such sale shall be paid

to the treasurer of the district, and all securities taken on account of any such sale or sales shall be made payable to him.

10 To prepare and report to the trustees of the village of Corning, such ordinances and regulations as may be necessary and proper, for the protection, safekeeping, care and preservation of schoolhouses, lots and sites, and appurtenances, and all the property belonging to the district, and to suggest proper penalties for the violation of such ordinances and regulations.

11 To make and transmit to the county clerk, or such other officer as may be designated by law, a report in writing, bearing date the first day of October, in the year of its transmission, and stating:

1 The number of schoolhouses in said district, and an account and description of all common schools kept in said district during the preceding year, and the time they have been severally taught.

2 The number of children taught in said schools respectively, and the number of children over the age of 4 years, and under the age of 21 years, residing in said district on the last day of September in each year.

3 The whole amount of school moneys received by the treasurer of said district during the preceding year, distinguishing the amount received from a tax on the district, and from other sources.

4 The manner in which such moneys have been expended, and whether any and what part remains unexpended, and for what cause.

5 The amount of moneys received for tuition fees from foreign pupils during the year, and the amount paid for teachers' wages, in addition to the public moneys, and with such additional information relating to the common schools of the district as may, from time to time, be required from the State Superintendent of Common Schools.

§ 8 The board of education shall provide that each school shall be visited by a committee of one or more of their number, at least once in each term.

§ 9 Every academical department to be established as aforesaid, shall be under the visitation of the Regents of the University, and shall be subject to its course of education, and matters pertaining thereto (but not in reference to the buildings or erections in which the same is conducted, unless in case the buildings or erections aforesaid are separate from those of the common school department), to all the regulations made in regard to academies by the said Regents; and in such department the qualifications for the entrance of any pupil shall be the same as those established by the said Regents, for admission into any academy of the State under their supervision; and such academical departments shall share in the distribution of the income of the literature fund, and of the income of the United States deposit fund, with academies in the State subject to the visitation of the Regents of the University.

§ 10 It is hereby provided, that in case the board of education shall deem it expedient to erect a building for an academy in said district, they shall submit the question to a vote of the taxpayers of the district, at the annual meeting, or at a special meeting called for that purpose, specifying the amount to be

raised and the manner of raising it, which vote shall be taken by ballot, and if a majority of the persons voting shall be in favor of the propositions of the board of education, then they shall have power to raise the sum of money voted for that purpose, by a tax upon the real and personal property in said district, which shall be liable to taxation for town and county charges, in like manner as other taxes are raised in said district; and the board of education are authorized and directed, when necessary, to borrow, in anticipation, the amount of taxes to be raised, collected and levied as aforesaid, and to give the bonds of the district, signed by the president of the board of education, and under the seal of the district, as security for the repayment of the moneys so borrowed. The moneys to be raised and paid in annual instalments or otherwise, as the board shall deem expedient.

§ 11 This act shall extend over and be applicable to all the territory lying within the bounds of district number 9, of the town of Corning; and the office of county or district superintendent of common schools, so far as is applicable to the said district, is hereby abolished.

§ 12 There shall be six trustees in said school district number 9, who shall be divided into three several classes, the first class to hold until one, the second until two, and the third until three years, from the second Tuesday of October last past; and after the first election of trustees under this amended act two trustees shall be elected, in the manner now provided by law, at the annual meeting of said district in each year, and shall hold their office for the term of three years each. (*As added by L. 1868, ch. 82.*)

§ 13 There shall be a special school meeting held at the schoolhouse in said district, on the first Tuesday of May next, at half past seven o'clock p. m., of that day, to elect the three additional trustees required by this act, and the clerk of said district shall give the same notice of said special meeting now required by law for an annual meeting, and at said special meeting the electors of said district shall elect three trustees, for one, two and three years respectively, from the second Tuesday of October last past, and shall designate by their votes for which term each is elected; and said trustees so elected, together with the trustees of said district now in office and their successors shall constitute the board of education of the village of Corning. (*As added by L. 1868, ch. 82 and amended by L. 1868, ch. 312.*)

§ 14 This act shall take effect immediately, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed. (*As amended by L. 1868, ch. 82.*)

CORTLAND

Chapter 160, Laws of 1900

An act to incorporate the city of Cortland

TITLE IX

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 150 City, permanent school district
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 - 152 District board continued a city board; succession of property and obligations
 - 153 Appointment of members of the board of education and organization of board
 - 154 Superintendent of schools
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 - 160 Powers of board of education to purchase sites or addition to any site or erect or enlarge any school building
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 - 163 Common council shall pass ordinance for protection of school property
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Section 150 City, permanent school district. The said city shall form a permanent school district and shall not be subject to alteration by the district school commissioner of common schools. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other State authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities.

§ 151 Board of education. The affairs of said school district of the city of Cortland shall be managed by a board of nine members to be appointed in the manner provided in this act, which board shall be known and designated as the "Board of education of the city of Cortland." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this State relating to school districts in cities, or relating to boards of education of such districts, and not inconsistent with the provisions of this act. (*As amended by L. 1901, ch. 196.*)

§ 152 District board continued as city board; succession to property and obligations. The present members of the board of education of union free school district number 1 of the village of Cortland, New York, shall constitute the board of education of said city and shall be members of such board until their successors are elected and qualified as provided in this act, and the title to all

real estate and personal property now belonging to said union free school district is hereby vested in the board of education of the city of Cortland, and all moneys and funds belonging to said district shall be paid over and delivered to the chamberlain of said city and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said union free school district are hereby transferred to, vested in and imposed upon said board of education of the city of Cortland as hereby created; and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against the board of education of the city of Cortland, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of education of union free school district number 1 of the village of Cortland, if this act had not been passed; subject, however, to the provisions of this act.

§ 153 **Appointment of members of the board of education and organization of board.** On or before the 15th day of January, 1901, the mayor of said city shall appoint nine members of the board of education as follows: Three members for a term of three years, three for a term of two years, and three for a term of one year, and in each year thereafter the mayor of said city shall appoint three members of the board of education in place of those whose term of office expires. The said members of the board of education shall on the first meeting in February in each year elect one of their members as president who shall hold said office for the ensuing year.

§ 154 **Superintendent of schools.** The said board of education, on the first Tuesday of May subsequent to the passage of this act, and in each third year thereafter, shall appoint a superintendent of schools for the term of three years; such superintendent shall be under the direction of the said board of education, which shall prescribe his powers and duties; he shall be paid from the teachers' fund a salary, to be fixed by the board of education. Whenever such superintendent shall be appointed the said school district shall be entitled to the benefits of the provisions of section 5 of title 2 of article 1 of chapter 556 of the Laws of 1894.

§ 155 **General powers and duties of president.** The president of the board of education shall preside over meetings of the board when present, and perform such executive acts and duties as is required by this act and general laws, and such other lawful business as shall be given him or her in charge by said board.

§ 156 **Clerk and his qualifications.** The superintendent of schools shall be clerk of the board of education, and shall act as secretary and keep the minutes of said board, and shall perform such other duties as may be required by this act and the general school laws of the State, and such other duties as the board may prescribe.

§ 157 **General powers of the board of education.** Subject to the provisions of this act and of the general Consolidated School Laws, the board of education of the city of Cortland shall have power and it shall be its duty:

1 To establish and organize in said city such and so many free schools as

said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

2 To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

3 To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages and to defray the necessary expenses attending the same.

4 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto, are enforced, and any violation thereof punished.

5 To contract with and employ all necessary teachers for the schools of the city under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the general school laws of the State and the rules and regulations established by the Department of Public Instruction of the State.

6 To pay the salaries of superintendent of schools and teachers out of any moneys appropriated or provided by laws for that purpose.

7 To defray the necessary expenses of the board and district, including the wages of janitors and other assistants and employees and incidental expenses.

8 To expend all moneys, raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such a manner as may be deemed advisable, but only for the purposes for which the same was raised.

9 To license, upon the recommendation of the superintendent of public instruction of said city, all teachers employed in the schools of the city, in the same manner and with like effect in said city as school commissioners of counties, and to fix the grade of State license of teachers that shall be accepted as the minimum requirement for teachers in said city.

10 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the board of public works for opening of streets and highways.

11 To have, to the exclusion of all boards and officers, except the Superintendent of Public Instruction and the Regents of the University of this State, the entire supervision and management of the schools of said city; from time to time, to adopt, alter, modify, or repeal, as it may deem expedient, rules and regulations for its organization, government, and instruction for the reception of pupils and their transfer from one schoolroom or schoolhouse to another, for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the city.

12 To allow the children or persons nonresident within the city to attend any of the schools therein under the control of the said board, upon such terms as said board may, by resolution, prescribe.

13 To establish and maintain a city school library and provide suitable rooms

for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

14 Other than as provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

15 Other than as provided in this act, to exercise all the powers conferred and all the duties imposed by the general laws of the State applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 158 Powers of board of education to raise tax for support of schools. On or before the 15th day of October in each year, the said board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year commencing with the 1st day of January next ensuing for each of the following purposes:

1 For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school, if one shall have been established, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds with the appendages and appurtenances.

4 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5 For the purchase of fuel and lights and to pay contingent expenses of the district, including the salaries of janitors, assistants, employees and incidental expenses.

Before the meeting of the board of education at which the aforesaid statement is prepared, the said board of education shall give to the mayor official notice thereof and the mayor shall attend said meeting and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the board of education shall finally have determined on the statement of expenses itemized as heretofore indicated, it shall present the same to the mayor or acting mayor of the city of Cortland. If the mayor or acting mayor approves such statement he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall within five days return the statement with his objection indorsed thereon or annexed thereto to the president of the board of education. Said board shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection and he shall then sign it and file it with the city clerk. But if he does not approve any item thereof he shall,

within twenty-four hours, return the same with his objections as before. The board of education shall continue to present statements as aforesaid until the mayor's approval is obtained or until two-thirds of the members of said board agree to pass the same over his objections and said statement when thus approved or passed shall be filed with the city clerk. If the mayor or acting mayor fails to sign a statement of moneys required as herein provided or fails to return within five days after its submission, said statement with his objections thereto, to the board of education, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall include in the annual tax and assessment roll for that year the amount specified in said statement, provided said amount shall not exceed one-third of 1 per centum of the total assessed valuation of all the property within the city as appears by the last preceding assessment roll thereof. In case said amount exceeds the limitation above specified it may be included in the annual tax and assessment roll for that year, by resolution of the common council passed by a two-thirds vote of all the members thereof, otherwise the entire statement shall be returned to the board of education, and it shall thereupon be the duty of said board to prepare a new statement in the same manner as the former, but the total amount of which shall not exceed the limitation of one-third of 1 per centum of the total assessed valuation of all the property within the city as appears by the last preceding assessment roll. The amount specified in said statement included in the annual tax and assessment roll of the city shall be collected by the city chamberlain, who shall credit the same to the general school fund of the board of education. (*As amended by L. 1901, ch. 196.*)

§ 159 **Payment of funds to chamberlain.** All public moneys or public funds belonging or appropriated to the use of said school district number 1 of the village of Cortland, shall be paid to the chamberlain of said city, who shall keep the same separate from the general funds of the city and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the chamberlain signed by the president, said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person to whom payable. Upon request from said board, the chamberlain shall certify, from time to time, the balance remaining to be collected by or paid to the city chamberlain for school purposes; it shall not be lawful for said chamberlain to apply such moneys or any part thereof, to any other purpose or object.

§ 160 **Powers of board of education to purchase sites or addition to any site or enlarge any school building.** Whenever the board of education shall resolve by an affirmative vote of two-thirds of its members that it is necessary to purchase a site or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased or building erected or enlarged and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the mayor who shall, within thirty days of

the receipt of said resolution, call a special election of the electors of said city to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided elsewhere in this act. In case three-fifths or 60 per centum or more of the votes cast be in favor of any said appropriations, the common council shall borrow upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds or other evidence of indebtedness, in such forms as it may prescribe at an annual rate of interest not exceeding 4 per centum, and payable at such times and in such amounts as the common council shall determine. Said bonds or any part thereof may be sold by the common council in such a manner as it may deem best, but at not less than the par value thereof. The board of education, after completing the work or other objects for which said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this act. (*As amended by L. 1903, ch. 295.*)

§ 161 **Annual report of board of education.** It shall be the duty of the board of education, on or before the 10th day of January in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year of the said board of education; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city, which they are required by law to have printed and circulated. Said board of education shall also make report to the Superintendent of Public Instruction of the State, and such reports shall be made in the manner and at such times as he may direct.

§ 162 **State Superintendent of Public Instruction to apportion State moneys.** It shall be the duty of the Superintendent of Public Instruction of this State to apportion for the use of the said board of education of the city of Cortland, such portions of the school, school library and other public money as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Cortland county. The said county treasurer of Cortland county shall pay over to the city chamberlain of the city of Cortland, for the use of the board of education of said city, such proportion of the school, school library and other public money as may be apportioned by law or by the Superintendent of Public Instruction of the State to the board of education of the city of Cortland for teachers' wages, school library and other school purposes.

§ 163 **Common council shall pass ordinances for protection of school property.** The common council of the city of Cortland shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the board of education of said city shall report necessary for protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 164 **Charges of misconduct or neglect of duty of any member of board of education.** Charges of misconduct or violation or neglect of duty, on the part of any member of the board of education, may be presented to said board by any member thereof, or by any elector of the city of Cortland, and such charges shall be duly examined by such board, at a regular or special meeting, of which the accused member shall have at least five days' notice, but at which meeting said accused member shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, said board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the proceedings of the meeting, shall be transmitted by the clerk of the board of education to the Superintendent of Public Instruction of the State, and upon his approval of the findings of the board, the accused member shall be removed and his place deemed vacant. All vacancies in the board of education, occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled for the unexpired term by appointment by the mayor.

§ 165 **Report of superintendent of schools.** The superintendent of schools of the city of Cortland shall confer with, and act under the direction of the board of education of said city in the performance of his duties. He shall, subject to the direction of said board, have general control and supervision of the public schools in said city and of the teachers employed therein and shall on or before the 1st day of July in each year, or at such other time or times, as shall be required by said board, report in writing to the board of education on the following subjects:

- 1 The whole number of schools within the jurisdiction of the board of education, their cleanliness and their sanitary condition.

- 2 The repairs or alterations, if any, that are necessary for each of said schools.

- 3 The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary.

- 4 The number of teachers employed in the several schools, their grade of work, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

- 5 The number of pupils registered at each school, the average daily attendance and also the number of pupils enrolled in each grade in the several schools.

- 6 Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

- 7 Such other information in relation to the city schools as may be of interest to the people of Cortland.

§ 166 **District a union free school.** The said district shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Cortland.

Section 10 provides for a board of education of 9 members and a superintendent of schools. Under section 11 such superintendent when chosen need not be a resident of the city. Section 13 provides that the members of the board of education shall be appointed by the mayor and the superintendent of schools appointed by the board of education. Section 15 fixes February first of the year in which the mayor is required to appoint members of the board of education as the date when their terms shall begin and August 1st of the year in which the superintendent of schools is appointed as the date on which his term of office shall begin. Section 30 requires all city officers to take the prescribed constitutional oath of office. Section 54 requires the board of education between the 1st and 15th of November, annually, to estimate in detail their expenses and income for the next fiscal year and certify the same to the common council.

DUNKIRK

Chapter 34, Laws of 1858

An act to make school district number 9 in the town of Pomfret, a union free school district

Section 1 All school districts and parts of school districts now or heretofore existing within the limits of the town of Dunkirk, in the county of Chautauqua, which lately formed a part of the town of Pomfret, in said county, are hereby consolidated into one entire school district, to be known as the Dunkirk union free school district. The said district, as herein enlarged and consolidated, shall, from and after the passage of this act, be under the direction, control and management of the present board of education of said district number 1 of said town of Dunkirk. (*As amended by L. 1875, ch. 169.*)

§ 2 The said district shall be under the direction of a board, to be styled the "Board of education," which board shall consist of six members, and be a body corporate, a majority of whom shall constitute a quorum for the transaction of business. Ebenezer R. Thompson, Samuel Hilliard, Joseph Mileham, James H. Van Buren, Julien T. Williams and Otis E. Tiffany, shall compose the first board of education, and shall hold their offices from one to three years, that is to say: two shall go out in each year in the order in which their names stand recorded in this section. (*Modified by L. 1901, ch. 110, which amends section 3 of this act.*)

§ 3 There shall be elected in each year in school district number 1 of the town of Dunkirk, commencing with 1908, two members of the board of education, who shall be residents and taxable inhabitants of said district, who shall hold their office for four years, and until their successors are elected and qualify. The said election shall take place at the annual town and city election, when all persons who by law, are entitled to vote for members of the board of education in said district may deposit their ballots, containing the names of two persons designated for said office. The election inspectors of the several polling places in said town of Dunkirk, shall canvass the votes so cast for members of the board of education in the same manner that votes for town officers are canvassed and make their returns of the same to the town board in the same way that returns for town officers are returned; and it shall be the duty of the town board to canvass the several returns so received and to certify to the board of education of said district the names of the two persons receiving the greatest number of votes for members of said board of education, who shall be declared elected as members of the board of education by said town board. No person or persons shall be permitted to cast a vote for members of said board of education unless they shall have been registered as herein provided. It shall be the duty of the several boards of registration at the annual registration for the city and town election, to properly register in books prepared for that purpose by the clerk of the said town,

distinct and separate from those used for registering those who intend to vote for town and city officers, the names of all those who wish to vote for members of said board of education, and who are by law entitled to vote for the same. Said inspectors shall also keep a separate poll list of all those who vote for members of said board of education, and shall have the same rights, powers and duties in regard to the care of the poll lists and to those voting for members of said board of education, as to those voting for town or city officers and the poll lists connected therewith. The persons hereafter elected as members of said board of education shall enter upon the duties of their office on the first Monday of January succeeding their election, which first Monday in January in each year after the passage of this act shall be the day for holding the annual meeting of said board of education. An officer of such board, if still a member of the board, shall hold his office until his successor has been duly elected. Hereafter it shall require a majority of all the members constituting such board of education to elect its officers. Hereafter the board of education of the said school district shall consist of eight members. If the office of a member of such board becomes vacant for any cause, except expiration of term, the remaining members of such board may, by a majority vote appoint a person to fill such vacancy until the next ensuing general election of the town and city of Dunkirk when such vacancy shall be filled for the unexpired term of any such member in the same manner as is herein provided for the election of members of said board of education. Whenever in the opinion of said board of education, it becomes necessary to procure a new site and build a new schoolhouse thereon, it shall call a special meeting of the taxable inhabitants of the district, at which meeting the said board will state the cost of the proposed site and the estimated cost of the school building that is proposed to be erected thereon. If said special meeting approves of the recommendation of the board, said board may purchase the site and build the schoolhouse and necessary outbuildings thereon. Said board of education is hereby authorized to make such repairs and additions to schoolhouses already built on land owned by said school district, as shall in the judgment of said board be deemed necessary for the school interests of said school district; and for the purpose of paying for such additions or new buildings erected on land owned by said district, said board is hereby authorized to issue bonds or certificates of indebtedness, said bonds or certificates not to be sold for less than par or to draw more than 4 per centum interest, and made payable at such times as the board of education may deem for the best interests of said district. (*As amended by L. 1883, ch. 163; L. 1895, ch. 526; L. 1901, ch. 110; L. 1908, ch. 406.*)

§ 4 The annual meeting of said district shall be held on the first Monday of October, in each year, at some place in said district, to be designated by the said board of education, at least two weeks prior to the time for the holding of such meeting. The said board of education shall give public notice of the time and place and object of such meeting, by publishing the same in the newspapers printed in said town of Dunkirk for the two successive weeks immediately preceding the week in which such meeting is to be held, and by posting copies of

such notice in three public places in said district at least two weeks prior to such meeting, which notice shall specify the number of the members of the board of education to be elected at such election, and at least two weeks prior to such meeting; said board of education shall appoint three suitable persons inspectors of such election, whose duties shall be to receive the ballots of the electors of said district and deposit the same in a suitable box, to be provided for that purpose, and after the polls are closed, and on the same day, to canvass the votes given at such election; and immediately after canvassing such votes, to make a statement in writing, which shall be signed by them, or a majority of them, thereby certifying the number of votes cast at such election, which certificate shall also show the number of votes cast at such election, for each person voted for as trustee at such election. Such certificate shall further show the persons who are, by the highest number of votes, elected to the office of members of said board. Said inspectors shall immediately thereafter make two copies of such statement and certificate, signed by them, or a majority of them, and shall forthwith deliver one copy thereof to the town clerk of said town of Dunkirk, and the other copy thereof to the secretary of said board of education. Said inspectors of election shall be entitled to a reasonable compensation for their services in the premises, to be paid by said board of education. The polls of such election shall, in all cases, be opened at nine o'clock in the forenoon, and continue open until nine o'clock in the evening of the same day, and no longer. The provisions of law relating to the elections of State and county officers shall apply to the elections under this act, so far as the same are applicable. (*As amended by L. 1875, ch. 169. This section has been modified and changed by L. 1901, ch. 110, which amends section 3 of this act and by L. 1899, ch. 40.*)

§ 5 Said board of education shall have power to fill all vacancies occurring in their own body for the unexpired term of the person causing such vacancy, and whenever any vacancy shall exist in said board of education, a majority of the remaining members shall constitute a quorum of said board. (*As amended by L. 1864, ch. 98. Said section 5 is modified by L. 1901, ch. 110, which amends section 3 of this act. Sections 2 and 3 of L. 1864, ch. 98, relate to borrowing money for the purpose of purchasing a site, building a schoolhouse and making repairs to school buildings generally, and approving the acts of said board of education in relation thereto.*)

§ 6 The said board may make all necessary by-laws for their own government; they shall have the entire control and management of all the common schools within the said district, and all the property belonging to the same; they shall have and possess within said district all the rights, power and authority of trustees of school districts, and shall in all respects be subject to the restriction and control of the commissioner of common schools for the district in the same manner as the common schools in this State are subject. They shall, at their first meeting, and at their first meeting after the annual election in each year, appoint one of their number president of said board, who shall preside at the meetings of said board when present; when absent, a president pro tempore shall act in his stead; they shall also appoint at said meeting one of their number secretary, who shall record

all the acts and resolutions of the board, also act as clerk of school district; in his absence a secretary pro tempore shall be appointed to discharge said duties; they shall also appoint a treasurer, collector and librarian of said district, who shall hold their offices respectively one year from their appointment, and until others are appointed in their places, unless sooner removed by said board. Such treasurer and collector shall each, within ten days after notice in writing has been received of his appointment, and before entering upon the duties of his office, execute and deliver to said board of education a bond in the penalty of twice the amount of the estimated amount of the money coming into his hands, and with such sureties as said board may require, conditioned for the faithful discharge of the duties of his office. In case such bond shall not be given within ten days after receiving such notice, such office shall thereby become vacated, and such board of education shall thereupon make an appointment to fill such vacancy. Such treasurer's bond shall be approved by the county clerk, and a copy thereof deposited in said county clerk's office.

§ 7 The said board of education shall meet for the transaction of business on the first Monday in each month, or on such other day of the week as they shall fix upon for the year, and may adjourn for a shorter time. Special meetings may be called by the president, or, in his absence or inability to act, by the secretary, or any other member of the board, as often as is necessary, by giving personal notice to each member of the board or causing a written or printed notice to be left at his place of residence, at least twenty-four hours before the hour of said meeting; and if any of said board refuses or neglects to attend any three successive stated meetings of the board, and if no sufficient cause of his nonattendance be shown, the board may declare his office vacant.

§ 8 No member of the board of education, except the secretary, shall receive any pay or compensation for his services, nor shall it be lawful for any member of said board to become a contractor for building or making any improvement or repairs authorized by this act, or be in any manner directly or indirectly interested, either as principal, partner or surety, in any such contract. All contracts made in violation of this provision shall be absolutely void, and the persons so violating shall forfeit the sum of one hundred dollars, which shall be collected by the board for the use of the district.

§ 9 The said board of education may call special meetings of said district whenever they may deem it necessary; they shall give notice of the same by posting up a written or printed notice thereof, in at least six public places in said district and by publishing the same in the newspapers published in said district at least two weeks previous to the time fixed for such meeting, which notice shall state the time and place of such meeting and the purpose for which the same is called; and no business shall be transacted at any such special meeting except that stated in the notice calling the same. One week's notice of the annual meeting shall be given in said newspapers. (*Modified by section 3 of this act as amended.*)

§ 10 The title of the schoolhouses, sites, lots, furniture, books, and all the school property of the school district, shall be vested in said board of education; and the said board in its corporate capacity may take, hold and dispose of any

real or personal estate transferred to it by gift, grant, bequest or devise for the use of common schools in said district; and all the rights, powers and duties heretofore belonging to the trustees of the Dunkirk Academy, and all grants of land to said trustees by the Dunkirk Association, or by any members thereof or otherwise, are hereby vested in the said board of education; and all the rights, titles and interests which the said town of Pomfret or the town or village of Dunkirk or the trustees of the said academy may have had or does now have in the plot of ground given by the said Dunkirk Association, or anyone belonging thereto, to the said trustees in the year 1838, or at any other time, as a donation to endow an academy, as laid down on a certain map and filed in the office of the county clerk of Chautauqua county on the 11th day of July, 1838, and entitled "Map of the town of Dunkirk, in Chautauqua county, State of New York, eighteen hundred thirty-six, the termination of the New York and Erie Railroad," are hereby vested in said board of education, whose duties shall be to carry out the object of the donors as expressed by them in a resolution adopted by said donors at a meeting held by them on the 14th day of January, 1838; and the map so filed on the 11th day of July, 1838, together with the inscriptions and acknowledgments thereon by the owner or owners of said land, shall be deemed and construed in all courts as a good and sufficient deed of said plot of land to endow an academy to the trustees of said academy; and the title of said trustees to the lands so donated shall not be forfeited from nonacceptance or usage by said trustees during the time it has been used as a burial place, and prior to the removal of all the remains of the dead therefrom, nor from any other causes, and the said board of education are hereby authorized to enter at once into the possession of said plot of land, and to have all the rights and powers hitherto vested in and possessed by the board of trustees of said village relative to the removal of any remains of the dead which may be found therein. (*As amended by L. 1880, ch. 17.*)

§ 11 The public schools of said district shall be free to all children residing therein; but the board of education may permit children of persons not residents within said district to attend said schools on such terms as they may prescribe, and said board shall have power to sue for and recover such prescribed sum. Said board shall require one of their number to visit each school in said district at least once in each week, to render such assistance to the teachers and advice to the pupils as may be necessary. (*Modified by Education Law, L. 1909, ch. 21, § 493, subd. 6, as amended by L. 1910, ch. 140, and L. 1912, ch. 276.*)

§ 12 Every resignation of officers appointed or elected under this act shall be made to the board of education, and such resignation shall not excuse said officer from the discharge of his duties until accepted by said board. (*Modified by section 21 of the public officer law.*)

§ 13 Said board of education shall cause an enumeration of the children between the ages of 4 and 21 years in said district, and make, once in each year, such a report to the school commissioner, at the time and in the manner required by law, of trustees of school districts; and any parent or guardian or housekeeper refusing to give his or her own name to the person appointed by said board to take such enumeration, and the number of the children between said ages living

in his or her family, shall be liable to a penalty of ten dollars; said penalty to be sued for and recovered by said board and appropriated to school purposes. (*Modified by Education Law, L. 1909, ch. 21, § 650-654, as amended by L. 1910, ch. 140.*)

§ 14 The town supervisor shall, upon the written order of the president and secretary of said board, pay to the treasurer of said board, out of money in his hands belonging to said district, such sums as said order may specify; and all moneys to be received shall be paid to the treasurer of said board, who, together with his sureties on his official bond, shall be accountable to said board of education. Said treasurer shall not pay out any moneys except by resolution of said board, and upon an order drawn by the president, and certified by the secretary to be so drawn in pursuance of such resolution.

§ 15 Said board of education shall have the entire control of the district library, and may make such regulations in regard to the purchase and distribution of books and management of said library as they shall deem proper.

§ 16 Said board of education shall have the power and are hereby directed to levy and collect by tax, once in each year, upon all the taxable property and inhabitants in said district, as the same shall have been last assessed by the town assessors of the town in which said district is situated, such sums as said board shall estimate to be necessary for the following purposes, viz:

1 To pay any deficiency in teachers' wages, after paying all the public money appropriated for such purpose.

2 To hire sites, schoolhouses and rooms for the use of said school district when necessary.

3 To alter, repair and improve the schoolhouses belonging to said district and their appurtenances.

4 To insure the schoolhouses and property belonging to said district.

5 To pay all necessary contingent expenses of said school district and of the board of education.

6 To pay the librarian a salary not to exceed twenty-five dollars per year.

7 Said board of education is hereby authorized to appoint or elect, at its annual meeting, one of its members as secretary thereof, who shall hold said office until his successor is duly appointed or elected by a majority of all the members constituting said board; also to make such rules and regulations as it deems best for the appointment of a librarian and to define the duties thereof; also to appoint at any time an assistant secretary of said board, who shall hold said office during the pleasure of said board, and who shall perform such duties as the board may designate and require in connection with the schools or the board of education or with the superintendent of schools. The salaries of said secretary, and assistant secretary, including the cost of making the annual tax roll and duties of the librarian, shall be determined by said board of education. (*As amended by L. 1881, ch. 180; L. 1897, ch. 479; L. 1902, ch. 284; L. 1907, ch. 118.*)

8 Any such sums as shall be authorized by a majority of the taxable inhabitants at any special meeting of said district, for the purpose specified in section 17

of this act; and the board shall add to their warrant for collection of taxes such amount as they shall deem proper for fees for collecting, not exceeding 5 per cent on the amounts to be collected. Said board shall have power to make all warrants for the collection of taxes to be raised by them, returnable in sixty or ninety days, at their discretion, and to renew the same whenever it shall become necessary; such warrant to be signed by the president and secretary pursuant to resolution of said board. In case it shall appear that the town assessment roll does not include all the taxable property of said district, the property omitted shall be assessed by the said board in the same mode required by law and added thereto; and the collector of said school districts shall, in the collection of any tax authorized by this act, proceed in the same manner and have all the powers which collectors of towns and county taxes now possess. (*Modified by art. 10 of the city charter, L. 1909, ch. 538.*)

§ 17 Whenever, in the opinion of said board, it becomes necessary to procure a site and build a schoolhouse, to enlarge those already built, or to raise money for any necessary school purpose not enumerated in this act, they shall submit the plans, the estimated cost of such building, site and necessary appendages, to the taxable inhabitants of said district, at a special meeting called for that purpose, and if a majority of such inhabitants present shall vote in favor of the same, the said board may proceed to carry the same into effect; but no site purchased and house built after the passage of this act shall exceed in cost jointly the sum of three thousand dollars, nor shall any addition to schoolhouses in said district exceed said amount; neither shall more than one schoolhouse or addition to any schoolhouse in said district be built in any one year; nor shall any additions be made to any schoolhouse in said district the same year in which a new schoolhouse is built; nor shall a greater sum than four hundred dollars be raised in any one year for purposes not enumerated in this act by said special meeting. (*Modified by L. 1901, ch. 110, which amends section 3 of this act.*)

§ 18 Said board of education shall have the power to establish as many primary schools in said district as they may deem proper, and to have in all respects the superintendency, supervision and management of the public schools in said district; to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction; for the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and public utility.

§ 19 Whenever, in the opinion of said board, it may be advisable to sell or exchange any schoolhouse, lots or sites now or hereafter belonging to the district, they shall state such object in the notice of an annual or special meeting, and, with the consent of a majority of the taxable inhabitants present at such meeting, may sell or dispose of such schoolhouses, sites or lots to the best advantage.

§ 20 Said board of education shall, at each annual meeting, submit a report in writing of their doings as such board, and shall state therein the number and condition of the schools in said district under their charge, and the number of scholars attending the same, the studies pursued, the amount of money received from the

State and from any other source, the expenditure of the same, and all the particulars in detail relating to schools in said district, which report may, if the board think proper, be printed.

§ 21 All laws and parts of laws inconsistent with this act are hereby repealed so far as relates to said Dunkirk Union Free School. (*As amended by L. 1875, ch. 169.*)

§ 22 This act shall take effect immediately.

Chapter 40, Laws of 1899

An act to provide for holding the annual town and city election of the town and city of Dunkirk at the general election on the first Tuesday after the first Monday in November of each year

Section 1 The annual election of all town and city officers of the town and city of Dunkirk, and of the members of the board of education of the union free school district of the town of Dunkirk, shall hereafter be held on the first Tuesday after the first Monday of November in each year; and the persons so voted for and elected at said annual election, excepting the receiver of taxes, shall enter upon the duties of their respective offices on the 1st day of January succeeding their election, and shall hold said respective offices for the same length of time from said 1st day of January, as is now provided by law for holding said offices. The receiver of taxes shall enter upon the duties of his office on the 1st day of May succeeding his election, and shall hold his office for the same length of time as is now provided by law. All town and city officers of said town and city shall hold their respective offices until their successors are duly elected and qualified.

§ 2 The names of all persons voted for at said annual election for said offices shall be printed or written upon the same ballots as those that contain the names for candidates for State and county offices, unless the manner of their election is other specially provided for by law; and the canvassing of all votes cast at said election, for said officers, shall proceed and be declared in the same manner as if cast at the annual town and city elections heretofore held in March of each year. All certificates of nomination of city officers shall be in duplicate, one of which shall be filed with the city clerk of said city and the other with the county clerk at such time as is now required by law for filing town nomination with the county clerk.

§ 3 This act shall take effect immediately.

Chapter 295, Laws of 1837

An act to incorporate the Dunkirk Academy

Section 1 Ezra Williams, Ernest Mullett, James Van Buren, George A. French, David McDonald, Horace Pemberton, Levy Parsons, Timothy Stillman, Walter Smith, William Mellen, Walter Chester and Chas. H. S. Williams, and such other persons as may associate with them, are hereby constituted a body

corporate, by the name of "The Dunkirk Academy," to be located in the village of Dunkirk, in the county of Chautauqua, for the purpose of establishing, maintaining a seminary of learning, for the education of youth.

§ 2 The estate, property and concerns of the said corporation shall be managed by a board of twelve trustees.

§ 3 The persons named in the first section of this act shall be the first trustees of the said corporation, and shall be divided by lot in three classes; the term of service of the first class shall expire on the second Monday of January next; that of the second in one year, and that of the third in two years thereafter.

§ 4 On the second Monday of January, 1838, and on the second Monday of January in each succeeding year, there shall be an election of four trustees, who shall hold their offices for three years, and until others shall be elected in their places. The election shall be by ballot, and by a plurality of the votes of the members present.

§ 5 The said academy shall participate in the distribution of the literature fund, whenever the Regents of the University shall be satisfied that it has complied with the requisitions of the law which would entitle it to the same.

§ 6 The corporation hereby created shall possess the powers and be subject to the provisions of the fifteenth and eighteenth chapters of the first part of the Revised Statutes, so far as the same are applicable and have not been repealed.

§ 7 This act shall take effect on the passage thereof.

ELMIRA

Chapter 370, Laws of 1895

An act in relation to the public schools in the city of Elmira

Section 1 The territory embraced within the corporate bounds of the city of Elmira shall constitute one school district, to be called "the school district of the city of Elmira," and the boundaries of said school district and of said city shall always coincide; but no change in the boundaries of said city shall take effect as respects said school district until the close of the school year in which such change is made. In case any extension of the boundaries of said city shall divide a school district so as to bring within said boundaries any school lands or buildings belonging to such divided district, the trustee or trustees of said district residing without such extended boundaries, or if there be no such trustee at the time of such extension, then such trustee or trustees as may thereafter be elected by the inhabitants of said district residing without said boundaries, and the board of education of said city shall, if they can agree, make such regulations, arrangements or disposition of, or respecting such school lands or buildings as they may deem just and proper, and for that purpose may provide for the joint or common use of said lands or buildings; or may sell the same or any part thereof and make an equitable division of the proceeds of such sale; or the said board or said trustee or trustees may have and retain the exclusive property in and use of said lands or buildings upon making proper compensation to the party surrendering its interest therein; and in case the said trustee or trustees should so hold and use the said lands or buildings, the same shall, for school purposes, form and be a part of said school district, and so long as said land or buildings are so held or so used, they shall be exempt from all taxation within said city. In case said trustee or trustees and said board of education shall fail to agree in whole or part upon such regulation, agreements or disposition of said lands or buildings, the matters of difference between them respecting the same shall be submitted to the school commissioner of Chemung county, who shall decide the same subject to appeal upon the matters decided, or any of them, to the Superintendent of Public Instruction in the manner prescribed in section 1 of title 14 of chapter 556 of the Laws of 1894, entitled the consolidated school law.

§ 2 The said school district of the city of Elmira shall remain and continue separate and distinct for the purposes and to the extent in this act specified. The commissioner districts shall continue as at present, subject only to such changes as shall be made in making the boundaries of said school district and city correspond, and such changes as the board of education of said city may find necessary at any time to make, provided that no change shall be made which shall reduce the population of a commissioner district to less than 3000 inhabitants.

§ 3 The present nine school commissioners of the said school district and their successors to be chosen as hereinafter provided, are hereby continued as heretofore constituted, a corporate body in relation to all the powers and duties conferred or imposed by law, and styled "The board of education of the city of Elmira," and are hereby invested with all the powers and charged with all the duties conferred upon them by this act. A majority of commissioners shall constitute a quorum.

§ 4 On the second Tuesday of October 1895, and biennially thereafter, there shall be elected in the manner hereinafter provided in each of said commissioner districts, the number of which is an odd number, one school commissioner, who shall be a resident of such district. On the second Tuesday of October 1896, and biennially thereafter, there shall be elected in the manner hereinafter provided in each of said commissioner districts, the number of which is an even number, one school commissioner, who shall be a resident of such district. Each commissioner so elected shall hold his office from the day of his election until the second Tuesday of October of the second year thereafter and until his successor be chosen and qualified to act. Each election of a school commissioner herein provided for shall take place and be had at such place or places as the board of education of said city shall designate within the district electing such commissioner, and the polls therefor and thereat shall be and continue open from one o'clock in the afternoon until seven o'clock in the afternoon of that day. The said board of education shall cause to be published in a newspaper of said city daily for the period of three days last prior to the day of such election, notice of such election and the places and hours of holding the same. At a meeting of said board of education the president thereof shall designate a commissioner or commissioners of such board other than the district commissioner of the district electing such commissioner, to preside at such election. In case any such designated commissioner shall, on account of his sickness or other insurmountable cause, be unable to attend and preside at such election, he shall cause notice of such inability, immediately upon the occurring thereof, to be given to the president of such board, who shall immediately thereupon designate and notify in writing another commissioner of such board other than the commissioner of the electing district to preside at such election. Such commissioner designated shall attend and preside over such election. In case, for any cause, there are at the time of holding an election for school commissioners not enough commissioners other than the commissioner of the electing district able to preside at the polls, the president shall appoint the superintendent of schools or secretary of the said board of education or other person who shall be a resident of said city and a qualified voter at a school election thereof but not a resident of the commissioner district within which said election shall be held, to preside at one of the polls with the same powers as a commissioner, and the said superintendent or secretary or such other person so appointed shall preside over such election. In case the person so appointed to preside over any such election shall on account of sickness, or other insurmountable cause, be unable to attend and preside at such election,

and he shall not be able to give to the president of such board, the notice above required, said person shall forthwith designate and notify in writing some other person, who shall be a resident of said city and a qualified voter at a school election therein, but not a resident of the commissioner district within which said election shall be held, and the person so appointed shall preside over such election. Such presiding officer shall, at the opening thereof, designate two persons who shall be residents of and qualified voters in such commissioner district, who shall act as inspectors of such election, and whose duties shall be to have at the opening thereof the ballot box provided by the presiding officer wholly empty of ballots and papers, to keep a true poll list of the name and residence of each person offering to vote and of each person challenged and voting, and of each person challenged and not voting thereat, and to aid the presiding officer in counting the ballots and ascertaining the result of the election. At any time before or during such election each of the candidates may name one elector of said district as a watcher at the poll of such election district, and the person or persons so named as watchers, and each of them, shall be entitled to be present in the room occupied by the inspectors of election and the presiding officer, and in a position and place from which he or they may conveniently, fully and comfortably watch the reception and deposit of every ballot cast at such election, and the full and final canvass of the ballots cast and the signing of the proper certificates. In the canvass of the said ballots, upon the demand of a watcher therefor, any ballot may be presented to him for inspection, but no ballot shall at any time be taken by a watcher from the hands of the inspectors. The voting shall be wholly by ballot, which shall be of white book paper, cut three inches in width and four inches in length, designated as follows: For school commissioner of district number (the number of the electing district being inserted in the blank after number), which may be printed or written, and the name of the candidate shall be printed or written near the middle of the ballot and below the designation. The ballot, when cast, shall be so folded that no printing or writing shall be exposed to view. The vote or ballot of any person offered at such election shall, upon challenge by any lawful voter thereat, be rejected, unless he be sworn as to his qualifications as such voter; and the presiding officer shall administer an oath to such person and to any other person offering to vote as he may deem advisable, to the effect that he will true answers make to such questions as shall be put to him touching his qualifications as a voter and his right to vote at such election, and such presiding officer shall thereafter examine him as to such qualifications and his right to vote. If he shall swear to the necessary qualifications of a voter, his vote shall then be received and deposited. If the person sworn and examined intentionally swears falsely as to his qualifications as a voter he shall be deemed guilty of perjury and shall, on conviction, be punished as now prescribed by law for the crime of perjury. The presiding officer shall provide a ballot box for the reception of ballots. Each ballot shall, by the person offering the same, be delivered to the presiding officer, who shall at once, unless it be challenged or he deem it advisable to administer the oath under the provisions hereinbefore made, deposit the

same in the ballot box. At the close of the polls at such election the presiding officer and the inspectors in each election district shall immediately make a true and correct count of the ballots cast within such district, which count shall thereupon be publicly declared by said presiding officer, who, with such inspectors, shall make and file with the clerk of the city of Elmira, within twenty-four hours next succeeding the close of such election, their certificate of the whole number of votes cast thereat, and the number received by each candidate, together with the poll list of the election in such district, certified by them to be correct and accurate. The person receiving the greater or greatest number of votes in each commissioner district shall be duly elected as commissioner from such district. Every presiding officer or inspector of such election who shall intentionally omit, neglect or refuse to do any act required by this section, or who shall intentionally do any act forbidden herein, shall be guilty of a misdemeanor. The board of education may, if they, at any election of school commissioners, deem it necessary, designate more than one polling place in any commissioner district and divide the district with respect to such polling place or places. No person not a resident of the commissioner district for which an election of commissioner shall be held shall be eligible to vote at such election; and in case the board of education shall designate more than one polling place in any commissioner district and divide the district with respect to such polling place or polling places as hereinbefore provided, no persons shall vote except at the polling place therein, which shall be within the subdivided district as prescribed by said board of education within which subdivided district said person shall reside. (*As amended by L. 1896, ch. 710.*)

§ 5 On the Monday next preceding the second Tuesday of October, 1895, and annually thereafter, on the Monday next preceding the second Tuesday of October, the common council of said city shall appoint two school commissioners for said school district to succeed the two commissioners appointed by the common council, whose term of office shall at that time expire. The persons so appointed shall hold their office from the time of their appointment, respectively, until the Monday next preceding the second Tuesday of October of the second year thereafter, and until their respective successors be appointed and qualified to act. Within ten days after receiving notice of his election or appointment, the person so elected or appointed shall take the oath of office prescribed by the constitution of the State, and file the same with the clerk of the city.

§ 6 All vacancies which may occur in said board of education, from any other cause than the expiration of their term of office, of the class known as commissioners at large, or commissioners appointed by the common council of the city of Elmira, shall be filled by the common council in the same manner that the original appointments are made, and vacancies occurring in like manner in the class known as district commissioners shall be filled by said board of education. The commissioners so appointed shall hold their offices for the unexpired term of those whose places they are chosen to fill. Any member of the board of education may resign his office by giving five days' previous notice in writing to the mayor of the city, who may, if he deems the reason sufficient, accept the same.

§ 7 Any member of the board of education may, for neglect of duty, immoral conduct or official misconduct, be removed from office by the common council of the city, by a vote of two-thirds present at any regularly called meeting thereof; but, before final action thereon, a written copy of the charges preferred against said member shall be served upon him, and he shall be allowed an opportunity to explain or refute them.

§ 8 Annually at the first stated meeting of the board of education held after the annual election and appointment of school commissioners as hereinbefore provided, they shall elect one of their number president of the board, and whenever he shall be absent or unable to act, they shall elect a president pro tempore. The school commissioners shall receive no compensation for their services.

§ 9 The board of education shall meet for the transaction of business as often as once in each month, and may adjourn for a shorter time. Special meetings may be called by the president, or in his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice to each member of the board, or causing a written or printed notice to be left at his place of residence or business, at least twenty-four hours before the hour for such special meeting.

§ 10 The board of education shall appoint a secretary and librarian, who shall hold their offices during the pleasure of the board, and whose compensation shall be fixed by said board; and the same person may hold the office of superintendent, secretary and librarian. The secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The librarian shall have charge of the library or libraries of the district, and may appoint such assistants as may be necessary, from time to time, and such assistants may be removed at any time by the board of education.

§ 11 The record of the board of education, or a transcript thereof, certified by the secretary, shall be received in all courts as prima facie evidence of the facts therein set forth; and such record, the books, accounts, vouchers and papers of the said board shall at all times be subject to the inspection of the common council of the city, or any committee thereof.

§ 12 The common council of the city of Elmira shall have power, and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real and personal estate in said school district, which shall be liable to taxation for town or county charges, such sums as may be determined upon, and certified by the board of education, to be necessary and proper, for any or all the following purposes, for the current year:

- 1 To purchase, lease, or improve sites for schoolhouses.
- 2 To build, purchase, lease, alter and repair schoolhouses, outhouses, and appurtenances thereunto belonging.
- 3 To purchase, exchange, improve and repair school apparatus.
- 4 To procure fuel, and defray the necessary expenses of keeping the schoolhouses in order, exclusive of repairs, including insurance.
- 5 To defray the contingent expenses of the public schools, and the district library or libraries, including salary of librarian and superintendent.

6 To defray the contingent expenses of the board of education, including the salary of the secretary thereof.

7 To pay teachers' wages, after the application of the public money appropriated by law for that purpose.

8 To pay charges or expenses incurred by law, or necessary to carry this act into effect, or to refund loans contracted by law, and to pay the interest thereon, or to pay such sums as shall be required to fulfill any contract duly made under the provisions of this act.

§ 13 The aforesaid tax to be levied and collected by virtue of this act shall be levied and collected in the same manner by the city chamberlain, and at the same time that State and county taxes are, and the powers, duties and liabilities of the city chamberlain, and his sureties shall be the same in reference to the collection of this tax as for city taxes, and his jurisdiction shall extend under this act to all territory embraced in the said school district. (*As amended by L. 1911, ch. 522.*)

§ 14 The money raised for the purposes of school sites, and the building, repairing and furnishing of schoolhouses, shall be known as the "the special school fund," and all other moneys as the "general school fund," and it shall be the duty of the board of education to keep accurate accounts of its receipts and expenditures, distinguishing between those of a general and those of a special character; and it shall not be lawful to expend any portion of the money raised for the use of one of said funds for the purposes of the other of said funds, except by permission of the common council.

§ 15 All moneys raised pursuant to the provisions of this act, and all school moneys by law appropriated to or provided for said school district, shall be paid to the chamberlain of said city, who, together with the sureties upon his official bond, shall be accountable therefor, in the same manner as for other funds of said city, and the common council in fixing the amount of the chamberlain's sureties, shall include the moneys received by virtue of this act. The said city chamberlain shall be liable to the same penalties for official misconduct in relation to said money as for any similar misconduct in relation to other moneys of said city.

§ 16 All money raised by virtue of this act, or received from any other source, for the use of the public schools, shall be deposited with the city chamberlain for the safekeeping thereof to the credit of the "board of education" until drawn as hereinafter provided for, and the said chamberlain shall keep the account of funds thus deposited with him separate and distinct from any other funds which he is or may be authorized to receive.

§ 17 The city chamberlain shall pay out the moneys received by him by virtue of this act only upon drafts drawn by the president and countersigned by the secretary of the board of education, which draft shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be made payable to the person or persons entitled to receive the money thereon, and shall state on what account said draft is drawn.

§ 18 The board of education may cause a suit or suits to be prosecuted in the name of the common council of the city of Elmira, upon official bond of the city

chamberlain of said city, for any default, delinquency or official misconduct in relation to the collection, safekeeping and payment of any money in this act mentioned.

§ 19 The said board of education shall have power, and it shall be their duty:

1 To organize, establish and maintain such and so many schools in said " school district " as they shall deem requisite and expedient, and to alter and discontinue the same.

2 To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses, and to fence and improve them.

3 Upon such lots and sites owned by said city to build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances as they may deem advisable; and for the purchase of said lots and the building and enlargement of such schoolhouses upon obtaining the consent of two-thirds of the common council of said city by a vote thereof duly taken and recorded, to issue the bonds of the city of Elmira to an amount outstanding at any one time, not exceeding \$250,000, payable within twenty-five years from the issue thereof, with interest thereon at not exceeding 6 per cent, which bonds shall be signed by the mayor of said city and the president of said board, and shall have affixed thereto the respective seals, attested by the respective clerks of said city and said board, and may have attached thereto coupons or warrants for the payment of interest, which may be made payable semiannually but such bonds shall not be sold for less than par value, with accrued interest, from the date thereof.

4 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to provide fuel for the schools, pay the necessary insurance on buildings and school property, and to defray the contingent expenses of the school library.

5 To have the custody and safekeeping of the schoolhouses and all school property belonging to said school district, and to see that the ordinances of the common council in relation thereto be observed.

6 To contract with, examine, license and employ all teachers in said schools, and at their pleasure remove them.

7 To pay the wages of such teachers and the superintendent out of the money appropriated and provided by law for the support of common schools in said school district, or by this act.

8 To defray the contingent expenses of the said board of education, the salary of the secretary thereof and the librarian.

9 To have in all respects the superintendence, supervision and management of the public schools of said district, and from time to time adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, or the reception of pupils and their transfer from one class to another, or from one school to another, and generally for their good order, prosperity and utility.

10 Whenever in the opinion of the board of education it may be advisable to sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the corporation, to report the same to the common council.

11 To prepare and report to the common council such ordinances and regulations as may be necessary and proper for the protection, safekeeping, care and preservation of schoolhouses, lots, and all property belonging to the city, connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and on or before the day for the first regular meeting of the common council in October in each year to determine and certify to the common council the sums in their opinion necessary or proper to be raised under the twelfth section of this act for the year commencing on the 1st day of January thereafter specifying the amount required for each of the purposes therein mentioned. (*As amended by L. 1904, ch. 189; L. 1910, ch. 464; L. 1911, ch. 522.*)

12 From time to time to adopt, amend or repeal such by-laws, rules and regulations respecting the meetings of said board and the transaction of its affairs as may be deemed proper.

§ 20 Upon the reception of the report of the board of education by the common council of the city of Elmira in relation to the amount of money necessary for school purposes, as directed to be made in preceding section the common council shall proceed to consider the same and approve, increase or diminish any or all of said estimates; provided, however, that the aggregate amount shall not fall below a sum sufficient to defray all the necessary expenses for the support of the public schools in the school district of Elmira for the succeeding year. After having fixed the amount to be expended for each, and all the purposes mentioned in the last preceding section, the same shall be certified to the board of education who shall, during such fiscal year, limit the expenditures for such purpose, so that the same shall not exceed the appropriation; and the common council shall also certify to the board of supervisors on or before the 15th day of November in each year the amount to be expended as aforesaid; and the board of supervisors shall place the same so certified in the county tax levy and shall levy and assess the amounts so certified in the same manner as moneys raised for the health and public relief departments and general election expenses. (*As amended by L. 1911, ch. 522.*)

§ 21 Between the 1st and 15th days of August in each year the board of education shall make and transmit to the State Superintendent of Public Instruction a report of the condition of the schools under their supervision in such form and embracing such statistics as the said Superintendent and the laws of the State require.

§ 22 The academy which now is, and any academy or high school which may hereafter be, connected with the public school system of said school district shall be subject to the visitation of the Regents, and shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as other academies of the State; and the Regents of The University of the State of New York shall pay annually to the board of education of Elmira, the distributive share of the said funds to which the said academy shall be entitled.

§ 23 The schools provided for under this act shall be free to pupils between the ages of 5 and 21 years, who are actual residents of said school district. The board of education shall decide all questions of residence arising under this section. The said board may allow the children of nonresidents to attend the schools of said district, and shall prescribe the rates for the tuition of such nonresidents, and also for all pupils over 21 years of age.

§ 24 The said board of education shall be trustees of the school libraries of said school district, and all the provisions of law which are now in force, or hereafter may be passed, relative to school libraries, shall apply to said board of education in the same manner as if they were trustees of a school district. They shall be vested with the same discretion as to the disposition of moneys appropriated by the laws of this State for the purchase of libraries which is therein conferred on the inhabitants of school districts, and they shall have power to purchase, exchange, repair or dispose of any books or other property of said libraries, or cause it to be done, and apply the proceeds to the purchase of other books or apparatus; also to provide suitable rooms and furniture for said libraries.

§ 25 The title of the schoolhouses, sites, furniture, books, and all other school property, belonging to the said school district, shall be vested in the city of Elmira; and the same, while used or appropriated for school purposes, shall not be levied on or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city, in its corporate capacity, shall be competent to take, hold, and dispose of any real or personal estate transferred to it by grant, gift, bequest or devise, for the use of the schools of said school district, whether the same be transferred in terms to said city by its proper style, or by any other designation, or to any person or persons, or corporation, for the use of said schools.

§ 26 The common council, may upon the recommendation of the board of education, sell any of the property, including existing sites, held by virtue of this act, upon such terms as they shall deem most advantageous; and the proceeds of all such sales shall be paid to the chamberlain of the city, and shall be by said board of education expended in the purchase, repair or improvement of schoolhouses, sites, or appurtenances, furniture or apparatus.

§ 27 It shall be the duty of said board of education, at least fifteen days previous to each annual election for commissioners, to prepare and report to the common council, a true and correct statement of the receipts and disbursements under the provisions of this act during the preceding year, in which account shall be stated under appropriate heads:

1 Money raised by the common council under the twelfth section of this act.

2 The school moneys received by the chamberlain of the city from the county treasurer.

3 The moneys received by the chamberlain of the city under the twelfth section of this act.

4 All other moneys received by the said city chamberlain, subject to the order of the board of education, specifying the sources from which they shall have been derived.

5 The manner in which such sums of money shall have been expended, specifying the amount under each head of expenditure; and the common council shall, ten days before such election, cause the same to be published in one or more of the newspapers of said city.

§ 28 The common council shall have power, and it shall be their duty, to pass such ordinances and regulations as the board of education may report as necessary for the protection, preservation, safekeeping and care of schoolhouses, lots, libraries and property belonging to or connected with the schools of said school district, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act to incorporate said city; and all such penalties, and all others by this act imposed, shall be collected in the same manner that the penalties for violations of the city ordinances are by law collected; and, when collected, shall be paid to the chamberlain of the city to the credit of the board of education, and shall be subject to their order in the same manner as other moneys raised pursuant to the provisions of this act.

§ 29 It shall be the duty of the city clerk with due diligence after the appointment of commissioners by the common council and after receiving notice of election in the districts, personally or in writing to notify the persons chosen of their appointment or election; and any person who, without sufficient cause, shall refuse to serve therein shall forfeit the sum of ten dollars, and every person so elected or appointed and not having refused to accept, who shall neglect to discharge the duties of such office, shall forfeit the sum of twenty dollars to said board of education. It shall be the duty of said board of education forthwith to prosecute for all forfeitures and penalties under this act when voluntary payment is refused, and when received, to apply the same to the purposes of education in said district. All officers mentioned in this act shall be deemed public officers within the intent and meaning of section 2 of article 1 of chapter 681 of the laws of 1892, and as such subject to the conditions therein prescribed.

§ 30 The superintendent of the public schools of said school district may be, ex officio, secretary of the board of education. He shall be under the direction of the board of education, and they shall prescribe his general duties. In addition to such other duties as may be devolved upon him by the board, in the visitation and superintendence of the schools, he shall examine the qualifications of teachers and grant certificates in such manner and form as may be prescribed by the State Superintendent or by the board of education, and which may at any time be revoked by said board of education. He shall be paid a salary out of the general fund, to be fixed by the board of education, and may be removed from office by the vote of a majority of all the members of the said board, who may, by a like majority, appoint his successor.

§ 31 All the acts and parts of acts conflicting or inconsistent with the provisions of this act are hereby repealed, so far as they affect this act.

§ 32 This act shall take effect immediately.

Chapter 86, Laws of 1907¹

An act to establish a retirement fund for pensioning teachers of the public schools in the city of Elmira, and to regulate the collection, management and disbursement thereof

Section 1 The general care and management of the public school teachers retirement fund is hereby given to the board of education, who shall, from time to time, establish such rules and regulations for the administration of said fund as it may deem best, and said board shall make payments from said fund of annuities granted in pursuance of this act when so directed by the board of retirement. The chamberlain of the city of Elmira shall hold and invest all money belonging to said fund in such investments only as are legal for savings banks in the State of New York and by direction of said board of education shall pay out the same, and he shall report in detail to the board of education of the city of Elmira, annually in the month of May, or oftener if required by the board of education, the condition of said fund and the items of the receipts and disbursements of the same.

§ 2 The retirement fund shall consist of the following, with interest and income thereof :

1 All money, pay, compensation or salary, or any income thereof forfeited, deducted, reserved or withheld for any cause from any teacher of the public schools of the city of Elmira, in pursuance of rule established or to be established by the board of education of the city of Elmira. The board of education shall certify monthly to the chamberlain the amounts so forfeited, deducted, reserved or withheld during the preceding month. Said amounts shall be turned into the said retirement fund.

2 All money received from donations, legacies, gifts, bequests or otherwise for or on account of said fund.

3 The sum of two thousand dollars yearly as provided for by the common council of the city of Elmira.

4 One per centum of the salaries of all teachers of the public schools of the city of Elmira, except that the amount deducted from the salary of any teacher shall not exceed twelve dollars in any one year. The board of education shall after September 1, 1907, deduct from each and every payroll of teachers, said one per centum of each and every amount earned in the period covered by said payroll, except that the amount deducted from any one salary shall not exceed twelve dollars for any one year. The board of education shall certify monthly to the city chamberlain, the amounts so deducted, and said amounts shall be turned into the said retirement fund. Each contract made by the board of education with teachers, shall specify that one per centum shall be deducted as provided in this

¹ The teachers of this city have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this city it has been superseded by the general law.

paragraph. Any teacher who shall have been a contributor to the retirement fund and who shall retire from the service, not being in receipt of an annuity shall, if application be made within three months after the date of his or her retirement, receive three-fourths of the total amount paid by him or her into the retirement fund.

5 All such other methods of increment as may be duly and legally devised for the increase of said fund.

§ 3 The board of retirement shall consist of the president of the board of education, the chairman of the teachers committee, the chairman of the finance committee, the superintendent of schools and three members of the teaching staff chosen by ballot at a meeting of the teachers, called some time during the month of May of each year by the superintendent of schools. At this meeting any vacancy in the members of the retiring board to be chosen from the teachers, shall be elected by ballot. The three members chosen the first year from the teachers shall determine by lot one member who shall serve for three years, one member who shall serve for two years, and the remaining member shall serve for one year and thereafter one member shall be elected each year.

§ 4 On the recommendation of the board of retirement the board of education shall have the power to retire any of the teachers of the public schools of the city of Elmira who, in the discretion of the board of education, is incapacitated for the performance of duty, and who has been engaged in the work of teaching for a period aggregating twenty years, fifteen of which shall have been in the public schools of the city of Elmira. The board of education may retire any teacher who shall have attained the age of sixty-five years and shall have been engaged in the work of teaching for a period aggregating thirty years. On recommendation of the board of retirement, the board of education shall retire upon his or her own application any teacher of the public schools of the city of Elmira who has been engaged in the work of teaching for a period aggregating thirty years, fifteen of which shall have been in the public schools of the city of Elmira.

§ 5 Upon such retirement, whether voluntary or otherwise, the person retired shall be entitled to receive an annuity out of the retirement fund of one-half of his average salary paid to such person for the five years immediately preceding retirement, but no annuity shall exceed the sum of four hundred dollars. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. No annuity shall be paid to any teacher who has not paid into the retirement fund at least twenty per centum of his or her annual salary at the time of retirement. Any teacher who teaches in any public school after being retired shall receive no benefit from said fund while so teaching. The annuities provided for by this act shall be payable in monthly instalments. If the moneys in the retirement fund be inadequate at any time to fully carry out the provisions hereinabove mentioned, the board of education

shall then distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

§ 6 The term "teacher" shall include:

1 All persons regularly employed to teach in the public schools of the city of Elmira, except male teachers employed in the high school of Elmira.

2 Those principals who have served as grade teachers in the public schools of the city of Elmira for at least ten years.

FULTON

Chapter 63, Laws of 1902

An act to incorporate the city of Fulton

TITLE VIII

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 150 City, permanent school district
- 151 Outside territory to constitute separate districts
 - 152 Children of separate districts may attend schools of city; terms
 - 153 Board of education
 - 154 Appointment of members of board of education; organization of board
 - 155 Superintendent of schools
 - 156 General powers and duties of president
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 - 158 General powers of board of education
 - 159 Powers of board of education to raise tax for support of schools
 - 160 Payment of funds to chamberlain
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 - 162 Annual report of board of education
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 - 167 District a union free school

Section 150 **City, permanent school district.** The said city of Fulton shall form a permanent school district, and shall not be subject to alteration by the district school commissioner of common schools. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other State authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities.

§ 151 **Outside territory to constitute separate districts.** All that territory in the town of Volney outside the corporate limits of said city, now constituting a portion of union free school district number 1 of the town of Volney, and all that territory in the town of Granby outside the corporate limits of said city, now constituting a portion of union free school district number 2 of the town of Granby, are hereby constituted separate school districts of said towns respectively. Said districts shall possess the same powers and privileges, and be subject to the same liabilities, as other school districts in said towns.

§ 152 **Children of separate districts may attend schools of city; terms.** The children residing in the separate school districts constituted by the last preceding section shall be admitted to the schools of said city and treated in

all respects the same as children residing in said city, so long as said districts shall remain as constituted by the last preceding section, not however, exceeding a period of ten years. Said districts shall pay for each child so admitted to said schools, a sum per capita equal to the cost per capita to said city of all children attending the schools of said city. The amount chargeable to said districts shall be certified annually to each district by the board of education of the city of Fulton. Said districts shall apply on such sum so certified, all State school funds allotted to said districts, and the balance thereof shall be assessed, levied and collected by each such district in the same manner as ordinary school expenses of other school districts in Oswego county are assessed, levied and collected. Said sums, when so received and collected, shall be paid over to the city chamberlain, and by him credited to the school fund of the city.

§ 153 **Board of education.** The affairs of said school district of the city of Fulton shall be managed by a board of seven members, to be appointed in the manner provided in this act, which board shall be known and designated as the board of education of the city of Fulton. Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of the State relating to school districts in cities, or relating to boards of education of such districts, and not inconsistent with the provisions of this act. The title to all real estate and personal property now belonging to union free school district number 1 of the town of Volney, and union free school district number 2 of the town of Granby, is hereby vested in the city of Fulton; and all moneys and funds belonging to said districts shall be paid over and delivered to the chamberlain of said city, and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said union free school districts are hereby transferred to, vested in and imposed upon the city of Fulton; and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against the city of Fulton, in the same manner and with like effect as the same might have been enforced by or against the board of education of union free school district number 1 of the town of Volney and union free school district number 2 of the town of Granby if this act had not been passed; subject, however, to the provisions of this act.

§ 154 **Appointment of members of board of education; organization of board.** On or before the 1st day of May 1902, the mayor of said city shall appoint seven members of the board of education, as follows: two members whose terms shall expire January 1, 1903, two members whose term shall expire January 1, 1904, and two members whose terms shall expire January 1, 1905; one of said members shall be appointed from each ward of the city, and shall reside therein; he shall also appoint one member from the city at large, whose term shall expire January 1, 1904. Thereafter, and on or ten days prior to the 1st day of January in each year, the mayor shall appoint members to fill the terms then expiring; the ward members for the term of three years, and the

member at large for the term of two years. The said members of the board of education shall meet on the first Tuesday in May, 1902, and elect one of their number as president, who shall hold office until January 1, 1904. Each two years thereafter, at the first meeting in January, said board shall elect one of its members president, who shall hold said office for the ensuing two years.

§ 155 **Superintendent of schools.** The said board of education, on the first Tuesday of May, 1902, shall appoint a superintendent of schools, whose term shall expire January 1, 1904. Thereafter, and at its first meeting in January, of each even numbered year, said board shall appoint a successor to said superintendent of schools, for the term of two years. Such superintendent shall be under the direction of the said board of education, which shall prescribe his powers and duties; he shall be paid from the school fund a salary, to be fixed by the board of education. Whenever such superintendent shall be appointed, the said school district shall be entitled to the benefits of the provisions of section 5 of title 2 of article 1 of chapter 556 of the Laws of 1894.

§ 156 **General powers and duties of president.** The president of the board of education shall preside over meetings of the board, when present, and perform such executive acts and duties as is required by this act and general laws, and such other lawful business as shall be given him or her in charge by said board.

§ 157 **Clerk and his qualifications.** The superintendent of schools shall be clerk of the board of education, and shall act as secretary and keep the minutes of said board, and shall perform such other duties as may be required by this act and the general school laws of the State, and such other duties as the board may prescribe.

§ 158 **General powers of the board of education.** Subject to the provisions of this act and of the general Consolidated School Laws, the board of education of the city of Fulton shall have power:

1 To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

2 To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expenses attending the same.

3 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages, and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

4 To contract with and employ all necessary teachers for the schools of the city, under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the general school laws of the State and the rules and regulations established by the Department of Public Instruction of the State.

5 To pay the salaries of superintendent of schools and teachers out of any moneys appropriated or provided by law for that purpose.

6 To defray the necessary expenses of the board and district, including the wages of janitors and other assistants and employees, and incidental expenses.

7 To expend all moneys, raised by virtue of this act, for purchasing sites,

erect or enlarging schoolhouses, or for other purposes, in such manner as may be deemed advisable, but only for the purposes for which the same was raised.

8 To license, upon the recommendation of the superintendent of schools of said city, all teachers employed in the schools of the city, in the same manner and with like effect in said city, as school commissioners of counties, and to fix the grade of State licenses of teachers that shall be accepted as the minimum requirement for teachers in said city.

9 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the board of public works for opening of streets and highways.

10 To have, to the exclusion of all boards and officers, except the Superintendent of Public Instruction and the Regents of the University of this State, the entire supervision and management of the schools of said city; from time to time to adopt, alter, modify or repeal, as it may deem expedient, rules and regulations for its organization, government, and instruction; for the reception of pupils and their transfer from one schoolroom or schoolhouse to another; for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the city.

11 To allow the children or persons nonresidents of the city to attend any of the schools therein under the control of the said board, upon such terms as said board may, by resolution, prescribe.

12 To establish and maintain a city school library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

13 Other than as provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

14 Other than as provided in this act, to exercise all the powers conferred, and all the duties imposed by the general laws of the state applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 159 **Powers of board of education to raise tax for support of schools.** On or before the 15th day of October in each year, the said board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year commencing with the 1st day of January next ensuing, for each of the following purposes:

1 For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school, if one shall have been established, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds with the appendages and appurtenances.

4 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5 For the purchase of fuel and lights and to pay contingent expenses of the district, including the salaries of janitors, assistants, employees, and incidental expenses.

Before the meeting of the board of education at which the aforesaid statement is prepared, the said board of education shall give to the mayor official notice thereof, and the mayor shall attend said meeting and be accorded the right of inquiry into all the items of said statement, and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the board of education shall finally have determined on the statement of expenses itemized as heretofore provided, it shall present the same to the mayor or acting mayor of the city of Fulton. If the mayor or acting mayor approves such statement he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein, he shall within five days return the statement with his objection indorsed thereon or annexed thereto, to the president of the board of education. Said board shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection, and he shall then sign it and file it with the city clerk. If the mayor or acting mayor fails to sign a statement of moneys required as herein provided, or fails to return within five days after its submission, said statement with his objections thereto to the board of education, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall include in the annual tax and assessment roll for the ensuing year the amount specified in said statement and the same shall be collected by the city chamberlain, who shall credit the same to the general school fund of the city.

§ 160 **Payment of funds to chamberlain.** All public moneys or public funds now belonging or appropriated to the use of said school district number 1 of the town of Volney, or of said school district number 2 of the town of Granby, shall be paid to the chamberlain of said city, who shall keep the same separate from the general funds of the city and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the chamberlain signed by the president and countersigned by the clerk of said board; said orders shall be numbered consecutively, and shall specify the purpose for which they are drawn and the person to whom payable. Upon request from said board, the chamberlain shall certify, from time to time, the balance remaining to be collected by or paid to him for school purposes.

§ 161 **Powers of board of education to purchase sites, or addition to any site, or erect or enlarge any school building.** Whenever the board of education shall resolve by an affirmative vote of two-thirds of its members that it is necessary to purchase a site or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased, or building erected or enlarged, and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the common council, which shall, within thirty days of the receipt of said resolution call a special election of the qualified electors of said city to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided in this act. In case a majority of the votes cast be in favor of any of said appropriations, the common council shall borrow upon the faith and credit of said city the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds of the city therefor.

§ 162 **Annual report of board of education.** It shall be the duty of the board of education, on or before the 1st day of January in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city, which they are required by law to publish.

§ 163 **State Superintendent of Public Instruction to apportion State moneys.** It shall be the duty of the Superintendent of Public Instruction of the State, to apportion for the use of the said board of education of the city of Fulton such portions of the school, school library, and other public money, as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities; and the amounts to which it shall be so entitled shall be certified to the county treasurer of Oswego county. The said county treasurer of Oswego county shall pay over to the city chamberlain of the city of Fulton, for the use of said city, such proportion of the school, school library, and other public money as may be apportioned by law or by the Superintendent of Public Instruction of the State to the board of education of the city of Fulton for teachers' wages, school library, and other school purposes.

§ 164 **Common council shall pass ordinances for protection of school property.** The common council of the city of Fulton shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the board of education of said city shall report necessary for the protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 165 **Charges of misconduct or neglect of duty of any member of board**

of education. Charges of misconduct or violation or neglect of duty on the part of any member of the board of education may be presented to said board by any member thereof, or by any elector of the city of Fulton, and such charges shall be duly examined by such board, at a regular or special meeting, of which the accused member shall have at least five days' notice, but at which meeting said accused member shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, said board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the proceedings of the meeting, shall be transmitted by the clerk of the board of education to the Superintendent of Public Instruction of the State; and upon his approval of the findings of the board, the accused member shall be removed and his place deemed vacant.

§ 166 **Report of superintendent of schools.** The superintendent of schools of the city of Fulton shall confer with and act under the direction of the board of education of said city in the performance of his duties. He shall, subject to the direction of said board, have general control and supervision of the public schools in said city, and of the teachers employed therein, and shall, on or before the 1st day of January in each year, or at such other time or times as shall be required by said board, report in writing to the board of education on the following subjects:

- 1 The whole number of schools within the jurisdiction of the board of education, their cleanliness and their sanitary condition.

- 2 The repairs or alterations, if any, that are necessary for each of said schools.

- 3 The condition of the school furniture, apparatus and books, in the several schools, and the repairs and additions thereto that may be necessary.

- 4 The number of teachers employed in the several schools, their grade of work, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

- 5 The number of pupils registered in each school, the average daily attendance, and also the number of pupils enrolled in each grade in the several schools.

- 6 Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

- 7 Such other information in relation to the city schools as may be of interest to the people of Fulton.

§ 167 **District a union free school.** The said district shall be deemed, and is hereby declared to be, a union free school district under the laws of the State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authorities of such cities, are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Fulton.

GENEVA

Chapter 175, Laws of 1844

An act in relation to school district number 1 in the town of Seneca and in the county of Ontario¹

Section 1 It shall be lawful for the trustees of school district number 1, in the town of Seneca, in the county of Ontario, at the next annual meeting of the district after the passage of this act, to submit for the consideration of such meeting a proposition graduating the rates of tuition to be paid by scholars attending the different departments into which such school is now divided; if the same is approved or shall be so amended as to be approved by a majority of those present qualified to vote in such meetings, such rates may be charged and collected, but they shall not be raised during the year next following their adoption.

§ 2 At any annual meeting of the district, after such rates of tuition have been adopted the same may be raised, reduced or entirely abolished, by a majority of such meeting.

Chapter 252, Laws of 1853

An act in relation to school district number 1, in the town of Seneca in the county of Ontario

(Repealed by L. 1913, ch. 427)

Chapter 43, Laws of 1869

An act in relation to school district number 1 of the town of Seneca, Ontario county

(Repealed by L. 1913, ch. 427)

¹ This act, though not specifically repealed, is superseded by the general law.

GLENS FALLS

Chapter 29, Laws of 1908

An act to incorporate the city of Glens Falls

TITLE XV

CITY SCHOOLS

- Section 167 School districts
168 School officers
168-a Levy and collection of school taxes
169 School moneys apportioned
170 Power to borrow money

Section 167 **School districts.** The territory included within the boundaries of the city of Glens Falls shall remain in the several school districts as they exist at the time of the passage of this act, subject to alterations in accordance with the provisions of the school law. Such school districts and parts of school districts shall be entitled to and have all the rights, powers, privileges, public moneys and other benefits, conferred by law, or otherwise, upon schools and school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence applicable to schools and school districts, except as provided by the next two sections.

§ 168 **School officers.** The officers of the several school districts and parts of school districts included within the boundaries of the city of Glens Falls shall be and continue the same and be elected or appointed the same, and possess the same powers and be subjected to the same duties and liabilities as is now provided by the Consolidated School Law, except that the city chamberlain shall be the collector for and collect all school taxes levied upon property situate within said city and against persons, corporations and associations in said city, and he shall be the custodian of all such school moneys as shall be paid to him by the county treasurer of Warren county, and, also, all moneys received for tuition and all other school receipts whatsoever. The city chamberlain shall deposit all such funds in the bank or trust company where the city funds are deposited, and shall receive the same interest thereon as is paid on city funds; he shall keep the funds of each district separately and credit each fund with any interest thereon, and shall pay out said funds only upon warrants issued by the several school district officers. (*As amended by L. 1909, ch. 550.*)

§ 168-a **Levy and collection of school taxes.** The valuation of taxable property within the boundaries of the city of Glens Falls shall be ascertained from the current city assessment roll after the same has been corrected as provided by sections 143 and 144 of this act. In fixing the tax rate for any school district, a portion of which is within and a portion of which is without the boundaries of the city of Glens Falls, the trustees of such district shall make the computation upon both the assessed valuation of such district within the boundaries of the city of Glens Falls as ascertained from the current city assessment roll, and the valuation of such district without the boundaries of the city

of Glens Falls to be ascertained from the current town assessment roll, after its revision by the assessors. Such school tax upon property within the boundaries of the city of Glens Falls shall be collected in the same manner, and upon the same conditions, terms and penalties as city taxes are collected under this act, and any fees or penalties collected by reason of such taxes not being paid within the required time shall be credited to and deposited with the funds of the school district which levied the tax on which such fees or penalties were collected. The city chamberlain as such shall not be entitled to any fee for collecting such school taxes, and shall keep a separate account with each of such school districts, keeping each fund separately, and render monthly or other financial statements to and as directed by the several school districts. Each of said school districts may appoint a collector, in the manner provided by the consolidated school law, to collect any school taxes levied upon property or against persons, corporations or associations within said district outside of the boundaries of the city of Glens Falls. (*As added by L. 1909, ch. 550.*)

§ 169 **School moneys apportioned.** The county treasurer of Warren county shall pay over to the city chamberlain, for the use of the several school districts wholly or partly within the boundaries of said city, such part of the school, library and other public moneys in his hands as shall have been apportioned to said district for teachers' wages, libraries and other purposes, and the city chamberlain shall receive, deposit and pay out as herein provided, all other public moneys which shall be apportioned to said school districts by any officer or officers, board or boards and from what source soever. The city chamberlain shall apportion the sum paid to him for school purposes from the proceeds of the tax on mortgages between the several school districts wholly or partly in the said city, upon the basis of the aggregate days of attendance of the pupils of such schools resident within the city, as such attendance appears from the statement filed with him by the school commissioner in March of each year, and shall notify the trustee or board of education of each of said school districts of the amount so standing to the district's credit in his hands. For the purpose of apportioning the sum paid him for school purposes from the proceeds of the tax on mortgages, the supervisor of the town of Queensbury shall regard that part of the school district lying partly in said town and partly in said city of Glens Falls, which is situated in said town, as a separate district. The teachers, trustees and board of education of school districts lying partly in said town and partly in said city, shall ascertain the aggregate days' attendance of pupils residing in the city and pupils residing in the town, and report the same separately to the school commissioner of the first district of Warren county at the time of making their annual report in August. The said school commissioner shall report in the following March to the city chamberlain and the said supervisor respectively such aggregate attendance of school districts and parts of districts.

§ 170 **Power to borrow money.** The board of education of union free school district number 1 shall have the same power to borrow money and under the same conditions and in like manner as is herein conferred upon the common council.

GLOVERSVILLE

Chapter 275, Laws of 1899

An act to revise the charter of the city of Gloversville

TITLE X

THE BOARD OF EDUCATION

- Section 185 School district of city
186 Board of education, a body corporate; its powers and duties
187 Powers of board in purchase, et cetera, of real estate; title of school property vested in
188 Annual election of school officers
189 Canvass and declaration of result of election; organization of board
190 Quorum of board; duties of clerk; general powers of board
191 Annual certificate of sums necessary for school purposes
192 Payment of funds to chamberlain
193 Resolutions for purchase of sites, et cetera; tax elections; how conducted
194 Annual reports of board
195 Apportionment of State moneys for use of board
196 Ordinances for protection of school property, et cetera
197 Vacancies in board, how filled

Section 185 **School district of city.** All the territory included within the boundaries of the city of Gloversville shall hereafter constitute a separate school district within this State, and shall be designated as "the school district of the city of Gloversville." It may bear such other additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all the rights, powers, privileges, public moneys, and other benefits conferred by law or other State authority upon school districts, and shall be subject to all the rules, regulations, powers of inspection, and superintendence prescribed by law applicable to school districts in cities, except as otherwise provided by this act.

§ 186 **Board of education, a body corporate; its powers and duties.** The affairs of said school district of the city of Gloversville shall be managed by a board of nine members, to be organized or elected in the manner in this title provided, which board shall be known and designated as the "board of education of the city of Gloversville." Said board of education is hereby constituted a body corporate in relation to all the powers and duties conferred upon it by this act or by any general law, and may sue and be sued by the corporate name aforesaid, and shall have a corporate seal. Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this State relating to school districts in cities, or relating to boards of education of such districts, and not inconsistent with the provisions of this act.

§ 187 **Powers of board in purchase, et cetera, of real estate; title of school property vested in.** The board of education of the city of Gloversville shall have the power, subject to the provisions of this act, to purchase, take, lease, hold, or improve any real or personal estate in trust for said school district of said city in the support and maintenance of schools or for any of the purposes of education in said city. It may also take by gift, grant, bequest, or devise and hold any real or personal estate in trust for any of the purposes of education, art, or the purchase, support, or maintenance of public libraries in said city, upon such terms as may be prescribed by the donor or donors and accepted by said board; and it may execute any trust for any of the purposes aforesaid and provide for the proper execution thereof. The title of all the schoolhouses, sites, lots, furniture, books, apparatus and other school property heretofore belonging to or in the possession of the school district of the city of Gloversville or the board of education thereof is hereby vested in the board of education of the city of Gloversville for the purposes of education in said city.

§ 188 **Annual election of school officers.** The annual election for school officers in said city shall be held on the second Tuesday of September of each year; and there shall be elected each year at such election three members of the board of education of said city for a term of three years each, and such other members to fill vacancies as shall have occurred during the preceding year for the unexpired term of any member whose office shall become vacant. Public notice of every annual or tax election held under this title shall be given by the board of education by a notice signed by its president and clerk, which notice shall be published in the official newspapers of said city at least once in each week for two consecutive weeks immediately preceding such election. The board of education shall each year designate at least three polling places in as many separate wards at which such annual election shall be held and the particular ward or wards for which each particular polling place shall serve, and the same shall be set forth in said notice, the officers to be elected thereat, together with the terms for which they are to serve respectively. The clerk of the board of education shall, each year, and at least ten days before the date of such annual election, notify the inspectors of the election districts in which each of the said polling places so designated are situated, by a notice mailed to each of them in the post office of said city, of every such election and polling places designated by the board. The inspectors of each of said election districts shall preside and conduct said annual election at the places in their respective districts designated as aforesaid, and their powers and duties in respect thereto shall be determined and regulated by the provisions of this act in respect to the holding of the annual city elections for city officers, except as modified by this title. Said election shall be opened at each polling place at ten o'clock in the forenoon, and shall be kept open without intermission or adjournment until four o'clock in the afternoon, when the same shall be finally closed, and the inspectors shall forthwith, without intermission or adjournment, canvass all the votes cast, declare and make a statement of the result, as required by this act in the case of annual city elections for city officers, and shall forthwith file such statements of the result with the clerk

of the board of education of said city. Every inhabitant of said city who, at the time and place of offering his or her vote, shall be qualified to vote for school officers under the general laws of this State relating to public schools, shall then and there be entitled to vote at such election; but no such inhabitant shall vote at any polling place except that designated for the ward in which he or she shall reside at the time of offering such vote, and shall have so resided for at least thirty days immediately prior to such election.

§ 189 **Canvass and declaration of result of election; organization of board.** On the day following each annual school election in said city, the board of education shall convene at seven o'clock in the afternoon, at its usual place of meeting, and all the statements of the votes cast at each of the polling places designated as aforesaid shall be produced, and the board of education shall forthwith declare the result and make a certificate in writing of all those who were duly elected at said election, and shall immediately file a duplicate thereof, signed by the president and clerk, in the office of the city clerk. The persons so elected shall thereupon take the usual oath of office, and the board of education of the city of Gloversville, as constituted for the preceding years shall be dissolved, and the board of education, composed of the persons so declared elected and those whose terms of office shall not have expired, shall then be organized by the election of a president from among their number and of some suitable person not of their number, but who shall be a resident of said city, as clerk of said board. The said board shall appoint and provide a place for its meetings, and adopt such rules and regulations for such meetings and the dispatch of its business and in the appointment of committees as it may deem advisable.

§ 190 **Quorum of board; duties of clerk; general powers of board.** A majority of the board of education shall constitute a quorum for the transaction of business. The members of said board shall receive no compensation, directly or indirectly, for their services. They shall appoint a clerk who shall hold office during the pleasure of the board, and whose compensation shall be fixed by said board. The clerk shall keep a record of the proceedings of said board, and shall perform such other duties as the board may prescribe. Subject to the provisions of this act, said board shall have power, and it shall be their duty:

- 1 To establish and organize in said city such and so many free schools, including night schools, as said board shall deem requisite and expedient, and to change or discontinue the same in their discretion.

- 2 To purchase or hire, sell or dispose of, schoolhouses, lots and sites, as they may deem advisable.

- 3 To alter, improve and repair schoolhouses and appurtenances, as they may deem advisable.

- 4 To purchase, exchange, improve, and repair school apparatus, books, furniture, and appendages, and to defray the necessary expenses attending the same.

- 5 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture, and appendages, and to see that the ordinances and by-laws of said city in relation thereto are enforced, and any violation thereof punished.

- 6 To contract with and employ all necessary teachers, and at their pleasure to

remove them, under such rules and regulations as may be prescribed by law or by the Department of Public Instruction of said State.

7 To pay the wages of teachers out of any money appropriated or provided by law for that purpose.

8 To employ a superintendent of instruction for said city and pay the wages or salary thereof out of any money provided for that purpose.

9 To defray the necessary contingent expenses of the board and said district, including wages of the clerk, janitors and other assistants and employees.

10 To expend all moneys raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes for which the same was so raised, except as hereinafter provided.

11 To license, upon the recommendation of the superintendent of instruction of said city, all teachers employed in the schools of said city, in the same manner and with like effect in said city as school commissioners of counties.

12 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the common council to take and appropriate lands for opening of streets and highways.

13 To have, to the exclusion of all boards and officers except the Superintendent of Public Instruction in this State, the entire supervision and management of the schools of said city, and from time to time adopt, alter, modify, or repeal, as they may deem expedient, rules and regulations for their organization, government, and instruction, for the reception of pupils and their transfer from one schoolroom or house to another, for their advancement from class to class as their degrees of scholarship shall warrant, and generally for the promotion of the good order and prosperity of said schools.

14 To allow the children of persons nonresident within the city to attend any of the schools therein under the control of the said board upon such terms as said board may prescribe by resolution.

15 To establish and maintain a city school library and to provide suitable rooms for the use of the same; and to employ and pay a librarian and assistants to have the care and supervision of the books and other publications belonging thereto, and superintend the letting out and return thereof. To exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

16 Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

17 To organize, establish, and maintain school savings banks, under the authority of and in conformity with any general law of the State in regard to such or similar institutions.

18 Except as otherwise provided in this act, to exercise all the powers conferred and all the duties imposed by the general laws of the State applicable to boards of education in cities. The records of the proceedings of said board, or a

transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 191 **Annual certificate of sums necessary for school purposes.** On or before the 1st day of March of each year the board of education shall prepare a certificate of such sums of money as it may deem necessary for each of the following purposes, namely:

1 For wages of superintendent and teachers, after applying all the public school and other moneys applicable thereto.

2 For the repair of schoolhouses, outhouses and grounds, with their appendages and appurtenances.

3 For the purchase, repair, or improvement of school apparatus, books, furniture and fixtures.

4 For the purchase, maintenance, and care of the city school library, but not to exceed two thousand dollars in any one year.

5 For the rent of schoolhouses and rooms for school purposes, the purchase of fuel and lights, and to pay the contingent expenses of the district, including the salaries of the clerk, janitors and incidental expenses. Such certificate, within the time hereinbefore specified, shall be presented to the mayor or acting mayor of said city, and if he approves, he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall, within five days, return the same to the president or clerk of the said board of education with his objections indorsed thereon or annexed thereto. The board of education may then proceed to reconsider said certificate, and if two-thirds of all the members then in office agree to pass the same, it shall take effect the same as if it had been approved by the mayor, and shall be immediately filed with the city clerk. In case two-thirds of said members do not agree to pass the same, they shall thereupon present another certificate to conform as nearly as may be to the views of the mayor as expressed in his objection; and if he approves it he shall sign the same; but if he does not approve any item thereof he shall, within twenty-four hours return the same with his objections as before. The board of education shall continue to present certificates as aforesaid until the mayor's approval is obtained, or until two-thirds of its members agree to pass the same over his objection. Such annual certificate so approved or adopted shall be filed with the city clerk, and the common council of said city shall include the same in the annual city tax and assessment roll for that year, and the amount so certified shall be collected by the chamberlain and be credited to the various funds as designated in said certificate. Whenever any such sum or sums shall have been so certified and filed with the city clerk, the city chamberlain shall have authority and it shall be his duty to borrow upon the faith and credit of said city the amount so certified, or any part thereof which may be necessary to meet the orders of the board of education upon him in paying the current expenses of said district.

§ 192 **Payment of funds to chamberlain.** All public moneys or public funds belonging or appropriated to the use of said district, shall be paid to the chamberlain of said city, who shall keep the same separate from the general funds of the city, and shall credit to each of the school funds the moneys or property be-

longing thereto. The board of education shall disburse all the funds of said district by orders upon the chamberlain, signed by its clerk and countersigned by its president. Said orders shall be numbered consecutively, and shall specify the purposes for which they are drawn, the person to whom payable, and the particular school fund to which they are chargeable. Upon request from said board the chamberlain shall certify from time to time the various balances remaining to the credit of any or all of said funds. Whenever any moneys are collected by or paid to the city chamberlain for school purposes it shall not be lawful for said chamberlain to apply such money or any part thereof to any other purpose or object. The board of education of the city of Gloversville may loan to the city of Gloversville at such time or times and on such terms and at a rate of interest not exceeding five per centum per annum as it may deem advisable, any moneys of the board of education which are not deemed necessary by it for its immediate use. Such loan or loans shall be made only upon a written obligation or obligations of said city and the faith and credit of said city shall be pledged for the payment thereof and for all renewal or renewals of said loan or loans. (*As amended by L. 1914, ch. 281.*)

§ 193 **Resolutions for purchase of sites, et cetera; tax elections, how conducted.** When the board of education shall determine by a resolution that it is necessary to purchase any site or addition to any site or erect any school building, or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased, or building erected or enlarged, and the particular sum required therefor. They shall then call a tax election in said city in the same manner as provided in this act for the calling of tax elections by the common council. Such tax elections may be held at the same time and with any other school election within said city. The clerk of the board of education shall notify the inspectors of the holding of such tax election in the same manner and within the same time that the city clerk is required to notify them in case of tax elections called by the common council. The inspectors shall thereupon proceed to hold such election pursuant to such resolution in the same manner as in holding other tax elections under this act; and the qualifications of the electors thereat shall be the same as provided in section 188 of this title. When such election is not held at the same time and with a school election, the board of education shall designate the polling places as at other school elections, and such election shall be held by the same inspectors as under like designation for the annual school election, and during the same hours and in the same manner. Each elector at every such tax election shall vote only at the polling place designated for the ward in which he resides, and shall have resided for the thirty days immediately prior to said tax election. The vote shall be taken by ballot, which shall be indorsed "school tax," and shall be deposited in a separate ballot box provided therefor and marked "school tax." The board of education shall at every such tax election, provide sufficient printed ballots for the use of the electors thereat, upon which shall be printed the several items or objects to be voted for thereat, with the words "for" and "against" at the beginning of each item. Each elector shall indicate his vote as to each of said

items by erasing or drawing a mark through one or the other of said words. The inspectors shall canvass the said votes without intermission or adjournment as at other elections, and make a statement thereof in respect to each item voted upon, and immediately file the same with the clerk of the board of education. Upon the day following such tax election, the board of education shall convene at its usual place of meeting, at seven o'clock in the evening, and the statement from each polling place shall be produced, and the board shall forthwith declare and make a certificate in writing of the result. If the board of education at any time after a special tax election, held as provided for under this section, shall consider it advisable to change any of the conditions of the proposition so adopted at said tax election, it shall have the right to resubmit any such changes by calling a tax election therefor, which shall be held in the manner set forth in this section. If such changes shall be approved by a majority of the votes cast at said tax election, then such changes shall be adopted by the board of education, and made a part of the original proposition, and shall have the same force and effect as though contained in the original proposition adopted at the first tax election, and all acts and contracts of the board of education, and moneys borrowed, and bonds and other obligations issued by the board of education upon the authority of such changes, shall be valid acts and obligations of the city of Gloversville and shall have full faith and credit as such. In case a majority of the votes cast, at any tax election held under this section, be in favor of the subject presented at said tax election, and of the sum or sums asked for, and the conditions in reference thereto, the board of education shall have authority to carry out the subject so authorized, and to borrow upon the faith and credit of said city, the aggregate of the items so authorized, or any part thereof, at any time before and until the same can be provided for according to law. In case the sum or sums so authorized to be raised shall exceed the sum of five thousand dollars, the board of education shall issue bonds or other evidence of indebtedness in such form as it may prescribe for the amount exceeding such sum of five thousand dollars, at a rate of interest not exceeding 5 per centum per annum, and payable at the rate of five thousand dollars per year. Said bonds or any part thereof may be sold by the said board of education in such manner as they may deem best, but at not less than the par value thereof. The board of education shall, on or before the 1st day of March in each year, make and file with the city clerk a statement of the amount necessary to be raised to pay the interest and principal that will become due during the ensuing year upon the bonds or obligations so issued by said board, and the common council shall include the same in the annual city tax and assessment roll for that year. Such amount shall be collected by the chamberlain and credited to the "loan fund." The common council, upon receiving the certificate of the result of any such tax election from the board of education, at which any money was voted to be raised, shall include five thousand dollars of the amount so authorized to be raised, or any less sum which may have been so authorized, in the next levy and assessment roll for the collection of taxes in said city, except that whenever any such tax election may have been held, and money voted to be raised there shall be outstanding and

unpaid any bonds or evidences of indebtedness issued in accordance with the provisions of this section, the board of education shall borrow, in the same manner as hereinbefore provided, the whole amount voted at such tax election; but no bonds or other obligations shall be made to mature at such a time as will make the amount to be raised by tax for this purpose in any one year exceed five thousand dollars of principal, and the interest on all such bonds and obligations remaining unpaid. This shall not be construed to affect any obligation made prior to the passage of this act. The board of education, after completing the work or other objects for which the said money may have been raised, may apply any unexpended balances that may remain to any object, authorized or contemplated by this section. (*As amended by L. 1907, ch. 549.*)

§ 194 **Annual reports of board.** The board of education, on or before the 1st day of September in each year, shall make and publish in the official newspapers of said city a report of their receipts and disbursements of school moneys during the last fiscal year, showing the amount received from each particular source and credit to each of the purposes specified in section 191 of this title and also showing the disbursements from each of said funds. The items of said disbursements shall be condensed and classified so as to present to the public, without addition or computation, the amount paid to each officer and teacher for salary, for wages and for each of the purposes specified in section 191, and also a full statement of the bonded or other indebtedness of the district. The said board may also make and publish, in such form as they shall consider advisable, such other and more extended report in relation to the affairs of the city schools as in their judgment may be of interest to the inhabitants thereof. The board of education shall make a report to the Superintendent of Public Instruction of the State and such reports shall be made in the manner and at such time as he may direct. Said Superintendent shall have the same power and jurisdiction over the elections and affairs of said district as he now has or by law shall have over the affairs of school districts in cities.

§ 195 **Apportionment of State moneys for use of board.** It shall be the duty of the Superintendent of Public Instruction of this State to apportion for the use of the board of education of the city of Gloversville such portions of the school, library, and other money as it shall be entitled to, by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Fulton county. The said county treasurer of Fulton county shall pay over to the chamberlain of the city of Gloversville for the use of the board of education of said city such proportion of the school, library, and other money apportioned to the said city of Gloversville by the Superintendent of Public Instruction for teachers' wages and libraries, or other purposes, as shall by law be apportioned to said board of education or district.

§ 196 **Ordinances for the protection of school property, et cetera.** The common council of the city of Gloversville shall have the power and it shall be its duty to pass such ordinances and by-laws as the board of education of said

city shall report as necessary for the protection, safekeeping, care, and preservation of the school buildings and other property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 197 **Vacancies in board, how filled.** All vacancies in the board of education occasioned by the death, resignation, refusal to serve, removal from the district, or otherwise, of any of its members shall be filled by appointment by said board until the next annual election; when the residue of the term, if any, shall be filled by some person to be elected to such office for the residue of said term. The board of education shall fill by appointment until the next election any office not filled at any election by reason of a tie thereat.¹

§ 74 **Annual tax for school purposes.** In addition to the said several sums hereinbefore mentioned, the common council are hereby authorized and directed to annually raise by taxation upon the taxable inhabitants of said city, and the property thereof liable to taxation, such sum or sums of money as the board of education may each year certify to them as necessary expenses during the current year. All taxes assessed in said city in any one year shall, if practicable, be included in one assessment, and collected under and by virtue of the same tax warrant.

¹ Chapter 13 of the Laws of 1911 legalizes, confirms and validates all proceedings relating to certain bond issues of March 23, 1908 and January 5, 1909.

HORNELL

Chapter 386, Laws of 1873

An act to encourage and promote education in the village of Hornellsville

Section 1 The trustees of school district number 7, in the town of Hornellsville, county of Steuben, shall constitute a board to be styled the board of education of the city of Hornellsville, which shall be a corporate body, with a seal, in relation to all the powers and duties conferred upon them by this act, and shall be elected from time to time as now provided by law. A majority of the board shall constitute a quorum. The first meeting of said board shall be held on the first Saturday of July, 1873, and the annual meeting of said board in each year thereafter shall be held on the third Tuesday of August in each year. At the first meeting of the board, and annually thereafter at the annual meeting, they shall elect one of their number president of the board, and whenever he shall be absent a president pro tempore may be appointed. The said trustees shall receive no compensation for their services, nor shall they be interested directly or indirectly in any contract for building or making any improvements or repairs provided by this act. (*As amended by L. 1901, ch. 56.*)

§ 2 The said trustees shall meet for the transaction of all business on the first and third Tuesdays of each and every month, and may adjourn for any shorter time; special meetings may be called by the president of said board, or in his absence or inability to act, by any two members of the board, as often as may be necessary, by giving personal notice, printed or in writing, to each and every member of the board, or by causing such notice to be left at his last place of residence, with some person of suitable age and discretion, or by depositing such notice, properly inclosed in a postpaid wrapper, in the post office at Hornellsville, directed to the person to be served at his post office address; such notice shall be served as aforesaid, at least twenty-four hours before the hour named for such special meeting; all meetings of said board shall be public, and the transactions and proceedings of all meetings of said board shall be open for the inspection of all persons who may desire to inspect the same, or to take copies thereof for the purpose of publication in all or any of the newspapers published in said city or elsewhere. The said trustees can only transact business as a board sitting in public; and all their acts shall be entered in the journal or book of minutes of said school district. The secretary of said board shall in all cases enter, in the record of the proceedings of the trustees, to be kept in said book of minutes, the names of all trustees voting on any resolution, and how each voted. No member of said board shall in any manner be interested in any contract for furnishing any supplies required to maintain any of the schools or departments in said school district. (*As amended by L. 1881, ch. 294; L. 1901, ch. 56.*)

§ 3 The said trustees shall appoint a secretary and treasurer, who shall hold their office during the pleasure of the board, and whose compensation shall be fixed by the board. The said secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record or transcript thereof, certified by the secretary, shall be viewed in all courts as prima facie evidence of the facts therein set forth, and such record and all the books, accounts, vouchers and papers of said board shall at all times be subject to the inspection of the people of the district.

§ 4 The trustees aforesaid shall have power, and it shall be their duty, to raise from time to time by tax, to be levied upon all the real and personal estate in said district which shall be liable to taxation, as provided by law for school purposes, as the board of education shall deem to be necessary and proper, for any and all of the following purposes:

1 To purchase, lease or improve sites for schoolhouses, or sites with buildings thereon, for the same purposes.

2 To build, purchase, lease, enlarge, alter, improve and repair schoolhouses, and their outhouses and appurtenances.

3 To purchase, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall not be deemed to authorize the furnishing with class or textbooks any scholar whose parents or guardians shall be able to furnish the same.

4 To procure fuel and defray the contingent expenses of the common schools, including the academical department therein, and the expenses of the school library of said district and the necessary expenses of said board, including the salary of the secretary of the board.

5 To pay teachers' wages, after the application of public moneys, which may be by law appropriated, apportioned and provided for that purpose.

6 The amount raised for teachers' wages and contingent expenses shall not be less than twice nor more than seven times the amount appropriated or apportioned to said district from the school fund of the State during the previous year, nor shall there be raised in any one year for building sites or sites with buildings thereon, erecting and repairing schoolhouses and appurtenances, a sum exceeding four thousand dollars, except as herein otherwise provided for. And the board of education are authorized and directed when necessary to borrow in anticipation the amount of taxes so to be raised, collected and levied as aforesaid and to give the bonds of the district, signed by the president of the board of education, under the seal of the district as security for repayment of the money so borrowed. (*As amended by L. 1901, ch. 56.*)

§ 5 All moneys required to be raised pursuant to the provisions of this act, and all school moneys by the law apportioned, appropriated to, or provided for said district, whether from the school, literature or United States deposit funds, or under the act to establish free schools throughout the State, or otherwise, shall be paid to the treasurer of the said district, who, together with the sureties on his official bond, shall be accountable therefor in the same manner as the

treasurer of the county of Steuben is for moneys which come into his hands, and shall be liable to the same penalties for official misconduct.

§ 6 The treasurer shall pay out the moneys authorized by this act, to be received by him, upon drafts drawn by the president and countersigned by the secretary of said board of education, which drafts shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be made payable to the person or persons entitled to receive the same, but he shall receive no compensation for his services.

§ 7 The treasurer of said district shall before entering upon his duties execute a bond with at least two sureties, to be presented to and approved by said board of education. He shall receive all moneys collected by the collector and give his receipts for the same, and shall draw upon the treasurer of the county of Steuben for the amount due and apportioned from the common school fund and upon the Comptroller of the State for the amount appropriated from the literature fund, and receive all moneys from any and all sources, that may belong to or be due to said school district or academic department, and receive all moneys from foreign scholars and give his receipt for the same, and shall pay all drafts drawn by the president and secretary of said board, and shall report annually at the annual meeting of the board, also at the annual meeting of the district, and shall present a statement of his accounts to the board at any time they may require, and shall surrender at the end of his term of office all moneys and papers in his hands as such treasurer to his successor in office. (*As amended by L. 1895, ch. 123.*)

§ 8 The treasurer of the county of Steuben aforesaid, shall pay to the treasurer of said district all moneys apportioned to said district and which shall come into his hands upon the draft of said treasurer, countersigned by the members of said board, which said draft, so drawn and countersigned, shall be as valid and effectual and have the same force and effect, as if drawn by the trustees of a school district, payable to the order of a duly qualified teacher. (*As amended by L. 1895, ch. 123.*)

§ 9 A collector shall be elected, chosen or appointed for said district, as now provided by law, and have and perform the same powers, rights and duties and be liable to the same obligations, penalties, pains and proceedings, as now provided by law, except that said collector shall, within the life of his warrant or the renewals thereof, pay all moneys collected by him as such collector to the treasurer of said school district.

§ 10 The said board shall have power and it shall be their duty:

1 To organize and establish such and so many schools or departments in said district as they deem requisite and expedient and to alter and discontinue the same.

2 To purchase and hire schoolrooms or houses, lots or sites for schoolhouses, or sites with buildings thereon, to be used as schoolhouses, and to fence and improve such sites as they may deem proper.

3 Upon such lots and upon such sites owned by said district, to build, enlarge,

alter, improve and repair schoolhouses and appurtenances, as they may deem advisable.

4 To have the custody and safekeeping of the schoolhouses, outhouses, books, furniture, apparatus and appurtenances, and to see that their ordinances in relation thereto are observed.

5 To contract with, license¹ and employ all teachers in said schools or departments and the academical department therein, and at their pleasure remove them.

6 To pay the wages of the teacher in said schools out of the moneys apportioned, appropriated and provided by law, for the support of common schools in said district, and the wages of the teachers of the academical department out of the moneys appropriated to said department from the income of the literature and United States deposit funds, so far as the same shall be sufficient, and the residue of the wages of the teachers in said schools and academical department, from the moneys authorized to be raised for that purpose by section fourth of this act, by a tax upon said district.

7 To defray the contingent expenses of said common schools and academical department, and the expenses of the school library of said district, and the necessary and contingent expenses of the board, including the annual salary of the secretary.

8 The said board to have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time adopt, alter, modify and repeal as they may deem expedient rules and regulations for their organization, government and instruction, or the reception of pupils, and their transfer from one school to another, and generally for their good order, prosperity and utility, and they shall have the power to expel or suspend any pupil or scholar from any of the said schools or departments for such time as they may see fit, when in their judgment the welfare and good order of said schools or departments may require. And to have power on the 1st day of September, 1873, or at any time thereafter, to establish in said schools an academical department to receive into said schools or academical department, pupils residing out of said district, and to regulate and establish the tuition fee of such nonresident pupils in the several departments of said schools, and in such academical department, and to collect such fees in the name of said district; to regulate the transfer of scholars from one department to another, and for their transfer from class to class; to direct what textbooks shall be used in said schools and academical department; to provide and keep in repair school apparatus, books for indigent pupils, furniture and appendages, and fuel and other necessities for the schools and academical department, and to establish, alter, or discontinue so many common schools in said district as they may see fit.

9 To sell, whenever in their opinion it may be advisable, any of the schoolhouses, lots or sites, and appurtenances, or any of the school property now or

¹ Authority to license teachers was taken from the board of education by L. 1897, ch. 512, § 3, and by § 14, title 6 of the Consolidated School Law.

hereafter belonging to said district. Such sale shall in no case, however, be made unless a petition, duly verified by the president of said board, setting forth the necessity or expediency thereof, shall first be presented by said board to the county court of Steuben county, and an order authorizing such sales and specifying the terms and conditions thereof shall be granted by said court. Notice of the presentation of such petition to said judge shall be published in all of the newspapers published in said district at least ten days before the presentation thereof. All moneys arising from such sales shall be paid to the treasurer of the district, and all securities taken on account of any such sale or sales shall be made payable to him.

10 To prepare and report to the trustees of the village of Hornellsville such ordinances and regulations as may be necessary and proper for the protection, and safekeeping, care and preservation of schoolhouses, lots, and sites, and appurtenances, and all the property belonging to the district, and to suggest the proper penalties for the violation of such ordinances and regulations.

11 To cause to be prepared and published in the newspapers published in said district, at least ten days before the annual meeting of the electors of said district, a full report:

1 Stating what schools have been kept during the year and for what time.

2 The whole number of teachers employed, and in what department, and salary.

3 The number of children on the roll in each department, and the average attendance of each.

4 The number of children in the district between the ages of 5 and 21.

5 The amount of school money received by the treasurer, and from what source received.

6 An itemized statement for what purpose expended.

7 And such other information as they may deem necessary to publish.

12 To make and direct between the first and second Tuesdays in October, to the school commissioner of the district in which said school district is, a report in writing dated on the first day of October of the year in which it is made, and shall sign and certify it, and deliver it to the clerk of the town of Hornellsville aforesaid, and every such report shall certify:

1 The whole time any school has been kept in said district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers, and the whole number of days, including holidays, in which the school was taught by qualified teachers.

2 The amount of their drafts upon the supervisor or treasurer of said district for the payment of teachers' wages during such year, and the amount of their drafts upon him for purchase of books and school apparatus during such year, and the manner in which such moneys have been expended.

3 The number of children taught in the district school or schools during

such year by qualified teachers, and the sum of the days' attendance of all such children upon the school.

4 The number of children residing in the district on the last day of September previous to the making of such report, between the ages of 5 and 21 years, and the names of the parents or other persons with whom such children respectively reside, and the number of children residing with each.

5 The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing schoolhouses, sites for buildings, hiring, purchasing, repairing and insuring schoolhouses, for fuel, for district libraries, or for any other purpose allowed by law, and such other information in relation to the schools and the district as the Superintendent of Public Instruction may from time to time require.

§ 11 The board of education shall provide that each department shall be visited by a committee of one or more of their number at least once in each term.

§ 12 The academical department to be established as aforesaid shall be under the visitation of the Regents of the University of this State, and shall be subject to its course of education, and matters pertaining thereto but not in reference to the buildings or erections in which the same is conducted, unless in case the buildings or erections aforesaid are separate from those of the common school department; to all the regulations made in regard to academies by said Regents; and in such department, the qualifications for the entrance of any pupil shall be the same as those established by the said Regents for admission into any academy of the State under their supervision; and such academical department shall share in the distribution of the income of the literature fund, and of the income of the United States deposit fund, with academies in the State subject to the visitation of the Regents of the University. Such academical department shall be known as the Hornell Free Academy,¹ and shall be forever free to all persons of school age, who are residents of the said district, and who shall comply with the regulations of the said board of education.

§ 13 It is hereby provided that in case the board of education shall deem it expedient to purchase additional sites or lots, and to erect additional buildings for the use of said school, or to erect a building for an academy in said district, they shall submit the question to a vote of the taxpayers of the district at the annual meeting, or at a special meeting called for that purpose, specifying the amount to be raised and the manner of raising it, which vote shall be taken by ballot, and if a majority of the persons voting shall be in favor of the propositions of the board of education, then they shall have the power to raise the sum of money voted for that purpose by a tax on the real and personal property in said district, which shall be liable to taxation for town and county charges, in like manner as other taxes are raised in said district; and the board of education are

¹ Name changed from Hornell Free Academy to Hornellsville High School by act of the Regents, January 20, 1898.

authorized and directed, when necessary, to borrow in anticipation the amount of taxes to be raised, collected and levied as aforesaid and give the bonds of the district, signed by the president of the board of education and under the seal of the district, as security for the repayment of the moneys so borrowed. The money to be raised and paid in annual instalments or otherwise as the board shall deem expedient; such proposition, stating the object thereof, shall be first published in all the newspapers published in said district, as least two weeks before said meeting.

§ 14 This act shall extend over and be applicable to all the territory lying within the bounds of district number 7 of the town of Hornellsville; and the office of school commissioner, so far as is applicable to said district, except as herein provided, is hereby abolished.

§ 15 This act shall take effect the first day of July, 1873; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 16 There shall be five trustees in said school district number 7; one of whom shall be elected at each annual meeting of said district, and those hereafter so elected shall hold their office for the term of five years. (*As added by L. 1881, ch. 294.*)

Chapter 288, Laws of 1906

An act to revise the charter of the city of Hornellsville and to change the name thereof

§ 56. . . . He [the city chamberlain] shall collect and receive all school taxes levied and imposed by the board of education of school district number 7 in the manner, as nearly as may be, and with the fees provided by law for the collection of school taxes; and the tax collected shall be paid by him to the treasurer of said board of education every five days, and the fees collected shall be paid to the city and credited to the board of public works fund. Said city chamberlain shall annually settle with and account to said board of education for all such money received by him during the preceding year, in the manner, as nearly as may be, provided by law for school tax collectors.

§ 57. . . . Such chamberlain shall also, within ten days after he shall ascertain the amount of any school tax to be received by him, execute and deliver to the board of education of school district 7 a bond, similar, as nearly as may be, to the bond required by law or collectors of school districts in this state. No warrant for the collection or reception of any school tax shall be delivered to said chamberlain until such bond shall have been executed and delivered by him as aforesaid, and approved by the board of education of said district.

§ 79. If any such taxes shall remain unpaid after diligent effort made to collect the same by virtue of such warrant, and the officer to whom the warrant is delivered shall not be able to collect the same, the chamberlain shall prepare separate accounts of such city and school taxes in the manner required by law or town collectors, which he shall verify by comparison with the assessment roll, and certify to be correct and to each of which shall be annexed the affidavit of the

officer to whom the warrant was delivered, that the sums mentioned in such account remain unpaid, that he has not been able upon diligent inquiry, to discover any goods and chattels belonging to or in possession of the person charged with or liable to pay such sums, whereupon he could levy the same. The chamberlain shall deliver such account of unpaid city taxes to the common council which shall be filed with the city clerk and such account of unpaid school taxes to the board of education of said district respectively, which shall be filed with the clerk thereof, and he shall have the proper credits therefor. . . but nothing herein contained shall be construed to repeal or in any way impair the effect of the provision of the existing laws of this State, and the methods of procedure and requirements thereof, or the existing laws as to the collection or payment of any unpaid or returned school taxes.

HUDSON

Chapter 751, Laws of 1895

An act to revise and consolidate the several acts in relation to the city of Hudson ;
to revise the charter of said city ; and to establish a city court therein and define
its jurisdiction and powers

TITLE XXIV

THE BOARD OF EDUCATION

Section 144 The board of education of the city of Hudson shall be a body corporate composed of the members of the board of education and shall have power to sue and defend in all courts. It shall have charge of the educational interests of the city. Its annual meeting shall be held on the last business day of each fiscal year, and it shall then organize for the ensuing fiscal year by the election of one of its members as president. It shall hold regular monthly meetings on such days as shall be designated by a majority of its members. Special meetings may be called at any time by the president, or by any three members, by written notice specifying the objects of the meeting, which shall be served upon each member not signing the same at least twenty-four hours before the meeting by delivering the same to him or leaving the same at his place of residence. Three members shall constitute a quorum. The secretary shall keep a record of the proceedings of the board, and have charge of its books, accounts, papers and vouchers. Such records or copies thereof attested by the secretary and president shall be received in all courts as prima facie evidence of the doing of the acts therein recorded. All records, books, accounts, vouchers and papers of said board shall be open to public inspection.

§ 145 Said board of education shall have the power, and it shall be its duty :

- 1 To divide the city into school districts ; to establish, organize and reorganize such and so many schools, including the common schools now established, as it shall deem requisite and expedient, and to discontinue the same.
- 2 To purchase or lease schoolhouses, lots or sites for schoolhouses, and upon such lots and upon any sites now owned by said city, and used for school purposes, to build, enlarge, improve, alter and repair schoolhouses, outhouses and appurtenances, subject to the provisions of this act.
- 3 To purchase, improve and exchange school apparatus, books, furniture and appendages, and to have charge of all the real and personal property of the city, provided for school purposes, including the joint school district library of the city of Hudson, and to make all proper and necessary regulations concerning the same, and it may appropriate for the benefit of said library or for apparatus necessary for the schools, out of the moneys annually raised in the said city for school purposes, an amount not exceeding one hundred dollars in addition to the library money received from the State.

4 To appoint a librarian who shall, under its direction, have special charge of the library, and to pay the said librarian a salary not exceeding fifty dollars per annum out of the school funds of the city.

5 To defray all the expenses connected with the schools out of the moneys provided for school purposes.

6 To examine, license, employ and pay all teachers of the schools under its charge, and at its pleasure to remove them. No teacher employed as such shall be a member of the board of education or a child of any such member.

7 To determine the kind of class books to be used in the several schools; the books thus adopted to be uniform throughout all the schools as near as may be.

8 To have the superintendence, supervision and management of the public schools of said city, and adopt, alter and repeal rules and regulations for their organization, government and instruction, for the reception of pupils, for their transfer from one school to another, and generally for the promotion of the good order and utility of said schools.

§ 146 The said board of education shall also have power to allow the children of persons not residents of Hudson to attend the schools of said city upon such terms as the board shall by resolution prescribe. The money received from nonresidents shall be used for school purposes.

§ 147 No officer or person, shall have power to make or shall make any purchase, create any liability, or contract any debt on the part of said board, unless specifically authorized by said board so to do; and no account, claim or demand shall be audited, allowed or paid by said board, unless the same was so authorized, nor shall any member of said board be directly or indirectly interested in any contract made by said board.

§ 148 Each member of the board shall visit all the schools under its charge not less than once in each year, and said board shall provide that each school shall be visited by a committee of its members at least once in each term.

§ 149 The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances and all other school property shall be vested in the city of Hudson, and the same, while used or appropriated for school purposes, shall not be levied or sold by virtue of any warrant or execution nor be subject to taxation for any purposes whatever.

§ 150 The common council may, by a two-thirds vote of all its members, upon the recommendation of said board of education, sell any of the schoolhouses, sites, lots or any of the school property now or hereafter belonging to said city upon such terms as the common council shall deem necessary. The proceeds of all such sales shall be paid to the city treasurer and deposited to the credit of the board of education and shall be by said board expended in the purchase, repairs or improvement of school buildings, lots, sites or school furniture, apparatus or appurtenances.

§ 150-a It shall be the duty of said board of education to certify within ten days after this act shall take effect, and annually thereafter on or before the last business day of the fiscal year to the common council, an estimate of the

amount of moneys necessary to be raised during the ensuing year for the purposes of the board of education, specifying in detail the objects thereof, under appropriate heads:

- 1 For salaries of teachers
 - 2 For buildings, including purchase of sites
 - 3 For repairs
 - 4 For library
 - 5 For contingent expenses
- (*As added by L. 1907, ch. 130.*)

§ 150-b The common council shall have power and it shall be its duty, if the said estimate, certified by the board of education, as herein provided, shall not exceed in amount a sum equal to twenty dollars per capita, based on the total number of persons enrolled as resident pupils in the public schools in said city, for the year ending on the 31st day of December, next preceding the levying of the general city taxes in each year, to appropriate and raise by tax to be levied upon the real and personal estate in said city, which shall be liable to taxation for the ordinary city taxes or for the city and county charges, such sum or sums of money, so certified to be necessary for the maintenance of the board of education and to defray the expenses of the said board; but if the total amount of said estimate shall exceed in amount a sum equal to twenty dollars per capita, based upon the total number of persons so enrolled as resident pupils as aforesaid, then the common council may, in its discretion, appropriate and raise by tax, as herein provided, any sum not greater than the estimate so certified and not less than twenty dollars per capita, based on said total number of persons so enrolled as resident pupils as aforesaid, provided nevertheless that the tax to be levied as aforesaid and collected by virtue of this act shall be collected at the same time and in the same manner as other city taxes, and the common council of said city are authorized and directed, when necessary, to raise by loan in anticipation of the taxes, the amount to be raised, collected and levied as aforesaid, or any part thereof. (*As added by L. 1907, ch. 130.*)

§ 150-c It shall be the duty of the common council within fifteen days after receiving the certificate of the board of education hereinbefore required, of the sum necessary or proper to be raised for school purposes, to determine and certify to said board of education the amount that will be raised by them for the ensuing fiscal year for said board of education. (*As added by L. 1907, ch. 130.*)

§ 151 Whenever it shall be necessary, in the opinion of the board of education, to build, enlarge, rebuild or repair any school building, or buildings, their outhouses or appurtenances, or to purchase a site or sites or furniture or equipment therefor, then, upon the recommendation in writing of three-fourths of the members of said board, filed in the office of the city clerk, the common council may, by a vote of two-thirds of all the members thereof, raise the amount necessary for such purpose or purposes on the credit of the city, by issuing bonds

of said city, of such form as said council shall prescribe, at a rate of interest not to exceed five per centum per annum.

In the year 1913 the board of education may, by a certificate in writing signed by four-fifths of its members and filed in the office of the city clerk, certify to the common council that the erection of a new high school building in said city and the purchase of a site, furniture and equipment therefor, are necessary, which certificate shall further certify the sum or sums of money required, in the opinion of the board of education, for such purposes. Said certificate shall be presented by the city clerk to the common council at its next meeting after such filing, and shall be recorded at length in the record of the proceedings of the common council. The common council shall thereupon, and within thirty days after the filing of such certificate, raise upon the credit of the city such sum or sums of money as shall be stated in said certificate and for the purpose or purposes therein stated, but not exceeding the sum of seventy-five thousand dollars, by the issue and sale of bonds of the city in such form and of such denominations as the common council shall prescribe, and at a rate of interest not exceeding five per centum per annum and payable at such times and in such instalments as the common council shall prescribe. And in the year nineteen hundred and fourteen the board of education may by a like certificate made, signed, filed, presented and recorded in like manner, further certify to the common council that in the opinion of the board of education a further sum or further sums of money are required for the completion of the said new high school building, and thereupon the common council may raise upon the credit of the city such sum or sums of money as shall be stated in such certificate and for the purpose or purposes therein stated, but not exceeding fifteen thousand dollars, by the issue and sale of bonds of the city in such form and of such denominations as the common council shall prescribe and at a rate of interest not exceeding five per centum per annum and payable at such times and in such instalments as the common council shall prescribe. Such bonds shall be known and described as "high school bonds," and shall be signed by the mayor and city clerk and shall be sealed with the seal of the city, and shall be sold in such manner as shall be deemed by the common council as likely to secure the greatest attainable price for such bonds, but not less than par. The proceeds of the sale of such bonds shall be deposited with the city treasurer to the credit of the board of education, subject to its draft, to be used for the purpose or purposes stated in said certificate of the board of education.

Any and all bonds provided for in this section and the interest thereon shall be paid and discharged by tax on the taxable property within the city, and the common council shall cause the amount falling due each year on such bonds to be assessed, levied and collected at the same time and in the same manner as other taxes are collected and paid in said city, and in addition thereto. (*As amended by L. 1913, ch. 314; L. 1914, ch. 228.*)

§ 152 All moneys appropriated, raised or received pursuant to the provisions of this title, and all school moneys appropriated or provided by law for said city, shall be paid to the city treasurer.

§ 153 Whenever, in the opinion of the board, it may be advisable, it shall be its duty to recommend to the common council such ordinances as it may deem necessary to carry the foregoing powers into execution.

§ 154 It shall be the duty of said board to make the annual report to the State Superintendent of Public Instruction, on or before the 1st day of November, of such matters as shall be required. The Superintendent of Public Instruction shall continue to appropriate to the city of Hudson, from the school moneys of the State, the same amount as is provided for other cities where special supervision of the schools is maintained.

§ 155 The superintendent of public schools shall perform such duties in relation to the schools of the city as the board of education shall from time to time direct, and shall be the secretary of said board, which shall fix his compensation.

Section 5 provides for a board of education of five members and a superintendent of public schools. Section 19 provides that the members of the board of education shall be appointed and may be removed by the mayor. It also fixes the full term of a member of the board of education as five years. Section 21 provides that the mayor may fill a vacancy on such board for the unexpired term. Under section 23 the members of the board of education are required to file with the city clerk a bond of \$5000 approved by the mayor for the faithful discharge of their duties. Under section 27 members of such board are required to take the usual constitutional oath of office.

ITHACA

Chapter 503, Laws of 1908

An act to consolidate and revise the several acts relative to the city of Ithaca

TITLE VIII

DEPARTMENT OF EDUCATION

- Section** 170 City one school district
- 171 Commissioners; board of education
- 172 Election of commissioners
- 173 City chamberlain to be school collector
- 174 Commissioners to take oath of office; vacancies, how filled
- 175 Removal for misconduct; resignation
- 176 Annual meeting; president; no compensation
- 177 Regular meetings; special meetings, how called
- 178 Appointive officers of the board; their duties; records of meetings; evidence
- 179 Powers of board of education to raise funds by taxation
- 180 Taxes; how assessed, levied and collected; bond of city chamberlain; notice to be published and posted
- 181 City chamberlain to collect without compensation other than salary; to collect percentage additions; daily payment to treasurer of board; settlement with board
- 182 Certain provisions of consolidated school laws applicable
- 183 All moneys to be paid to the treasurer of the board
- 184 All moneys to be deposited to credit of the board
- 185 Drafts on county treasurer for various funds from the State
- 186 Treasurer to pay out moneys on drafts of the board; make written statement, when required; settlement with board and payment to his successor
- 187 Board may prosecute official bond of city chamberlain or treasurer
- 188 Powers and duties of the board enumerated
- 189 Raising fund for new building; to be submitted to voters
- 190 High school one of the academies of the State; subject to visitation of the Regents; shall share in State funds
- 191 Annual reports to State Superintendent
- 192 State Superintendent to apportion school funds; same to be paid by county treasurer
- 193 School to be free to residents; tuition required for nonresidents
- 194 Board to be trustees of the school district library; its powers and duties in relation thereto; may appropriate two hundred and fifty dollars annually
- 195 Title of school property vested in board of education; exemption from levy and sale; powers of board to take and hold property
- 196 Annual statement to be published; contents
- 197 Notice of city clerk of election or appointment; penalty for refusal to serve; for neglect of duty; prosecutions
- 198 Board may appoint a superintendent of schools; prescribe his duties; his other duties; salary
- 199 Conflicting acts repealed; power of State Superintendent preserved; his decision of disputes final

Section 170 All school districts and parts of school districts in the city of Ithaca shall, for the purposes hereinafter mentioned, form one school district, to

be called the school district of the city of Ithaca. Said district shall not be altered except by legislative enactment.

§ 171 The present commissioners of the school district of the city of Ithaca, for the periods for which they were respectively chosen, or their successors in case of vacancies occurring before the expiration of such periods respectively, shall be commissioners of the school district of the city of Ithaca, and the said commissioners and their successors, chosen as in this act provided, are hereby continued a body corporate, styled the board of education of the city of Ithaca. A majority of the commissioners shall constitute a quorum.

§ 172 There shall be elected annually at each annual city election in said city, in the same manner as other general city officers are elected, and by vote of the inhabitants qualified to vote for such general city officers, or qualified to vote as provided by the Consolidated School Law of the State, four commissioners, to fill the places of those whose terms of office expire on the 1st day of January next succeeding such election. The commissioners shall hold their respective offices for the term of three years from the 1st day of January next succeeding their election, and until their successors shall be elected and enter upon the duties of their office, respectively.

§ 173 This act shall not be so construed as to disqualify any commissioner aforesaid for reelection. The city chamberlain of the city of Ithaca shall by that title be the collector ex officio of the said school district of the city of Ithaca, and his duties, authority and jurisdiction shall extend to all taxes levied by the said board of education of the city of Ithaca during his term of office as such city chamberlain, and shall continue until his final settlement with said board of education as required by section 181 of this act. Said city chamberlain with reference to said taxes shall also perform the duties, possess the powers, and be subject to the obligations prescribed by law for town collectors, except as herein otherwise provided.

§ 174 The commissioners elected by virtue of this act, before entering upon the duties of their office, shall each take the oath of office prescribed by the constitution of this State, before the clerk of the city of Ithaca, who is hereby empowered to administer said oath, and said clerk shall file the same among the records of the city. The board of education shall have power and it shall be its duty to fill any vacancy in the said board which may occur from any other cause than the expiration of term of office, the commissioner so appointed to hold office until a successor is duly elected to fill such vacancy, and qualifies.

§ 175 Any member of the board of education may, for neglect of duty, or either immoral or official misconduct, be removed from office by the board, by a vote of two-thirds present at any regularly called meeting thereof; but before final action thereon, a written copy of the charges preferred against said member shall be served upon him, and he shall be allowed an opportunity to explain or refute them. Any member of said board may resign his office by giving one month's previous notice, in writing, to the said board, which may, if it deem the reason sufficient, accept the same.

§ 176 At each annual meeting of the board it shall elect one of its number president of the board, and whenever he shall be absent, or unable to act, it shall appoint a president pro tempore. The board shall fix the time for its annual meeting, and, unless changed by a resolution of the board, the time thus fixed shall be the time for future annual meetings. The commissioners shall receive no compensation for their services.

§ 177 The board of education shall meet for the transaction of business as often as once in each month, and may adjourn for any shorter time. Special meetings may be called by the president, or, in case of his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice to each member of the board, or by mailing a written or printed notice to his address, at least twenty-four hours before the time for such special meeting.

§ 178 The board of education shall appoint a secretary, treasurer and librarian and such other officers as in the judgment of the board of education may be deemed necessary, who shall hold their offices during the pleasure of the board, and whose compensation shall be fixed by the board; and the same person may hold two or more of such offices. The secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. The treasurer shall, before entering upon the duties of his office, furnish a bond acceptable to the board of education in such penal sum as may be fixed by it, and said board shall have power to increase the amount of said bond whenever in its discretion said board may regard it advisable. The librarian shall have full charge of the library or libraries of the district, and may appoint such assistants as may be necessary, from time to time, and such assistants may be removed at any time by the board of education. The record of the proceedings of the board of education, or a transcript thereof certified by the secretary, shall be received in all courts as prima facie evidence of facts therein stated, and such record, the books, accounts, vouchers and papers of the said board shall at all times be subject to the inspection of the common council of the city, or any committee thereof, or any taxpayer, and a transcript thereof may be taken. The board of education may by resolution prescribe the duties of any of its appointees, in addition to the duties specified in this title.

§ 179 The board of education shall have power, and it shall be its duty, to raise, by tax to be levied upon all the real and personal estate in said school district, which shall be liable to taxation for school purposes, such sums as may be determined to be necessary and proper, for any or all the following purposes, for the current year:

1 To purchase, lease or improve sites for schoolhouses.

2 To build, purchase, lease, alter, and repair schoolhouses, outhouses and appurtenances thereto belonging.

3 To purchase, exchange, improve and repair school apparatus and provide suitable and necessary textbooks for the pupils of the several schools under its care; provided, however, that it shall be optional with said board of education to provide suitable and necessary text-books for the pupils attending the high school.

4 To procure fuel and defray the necessary expenses in keeping the school-houses in order, exclusive of repairs, including insurance.

5 To defray the contingent expenses of the several schools and the district library or libraries, including salary of librarian and superintendent.

6 To defray the contingent expenses of the board of education, including the salary of the treasurer and secretary thereof.

7 To pay teachers' wages after the application of the public money appropriated by law for that purpose.

8 To pay charges or expenses incurred by law, or necessary to carry this act into effect, or to refund loans contracted by law, and to pay the interest thereon, or to pay such sums as shall be required to fulfill any contract duly made under the provisions of this act.

§ 180 The tax aforesaid and all of the taxes to be levied and collected by virtue of this act, shall be assessed and the tax list made out and delivered to the proper officer for collection, within thirty days after the same shall have been voted by the board of education. The said tax list shall be made out by the board of education upon the basis of the last assessment roll of the city, including in such tax list all property on said roll liable to taxation for school purposes, except that the board of education may for such purpose amend and correct any error which may have been discovered in said roll. The board of education shall attach to said tax list its warrant for its collection, directed to the city chamberlain and signed by the president and secretary of the board. Before the delivery of the warrant to him the city chamberlain shall execute and deliver to the board of education a bond in a penalty fixed by the board, with a surety company as surety, to be approved by the board, conditioned for his honestly and faithfully discharging his duties as specified in this title, in the collection of school taxes and percentage additions, and accounting for and paying over all such money which shall come into his hands as such city chamberlain. The premium expense of such bond shall be paid by the board of education. The said warrant shall be the same in form as a warrant issued by the trustees of a school district of the State, and it shall have a like force and effect as are given to a warrant of the trustees of a school district by the general laws of the State. The board of education may, from time to time as it shall deem proper, renew any warrant, or extend the time for the return of any warrant, issued for the collection of any tax assessed by them by virtue of this act. The board of education, upon delivering any tax list and warrant to the city chamberlain, shall retain a copy of the same and shall take a receipt from the city chamberlain for the said tax list and warrant, which receipt shall specify the amount and the percentage additions to be collected, and the return day of the said tax list. The board of education shall also, immediately upon the delivery of any tax list to the city chamberlain, publish a notice thereof in two of the city papers, stating that until a date therein specified, which shall not be less than one month after the first publication, the city chamberlain will collect and receive said taxes at his office without percentage. At least five copies of said notice, in large type, shall be posted in at least five public places in

each ward of the city at least one month before said date specified. (*As amended by L. 1912, ch. 438.*)

§ 181 The city chamberlain shall receive no compensation other than the salary in this act provided, for receiving or collecting any money by virtue of said tax list and warrant. For one month next after the expiration of the time specified in said notice the city chamberlain is authorized to, and he shall, collect and receive on all sums unpaid three per centum in addition for the benefit of the board of education, and on all sums thereafter unpaid five per centum in addition for the benefit of the said board. In addition to the above penalties a further penalty may be imposed in the discretion of the said board of education, of interest not exceeding six per centum per annum, upon all taxes remaining unpaid after six months from the date of the tax warrant. He shall daily pay to the treasurer of the board of education all taxes and percentage collected or received. He shall settle with the board of education at its first regular monthly meeting after the final expiration of said warrant and shall account to it for all moneys received by him upon the tax list delivered to him. He shall also comply with section 72^a of title 7 of the Consolidated School Law the same as is required of the collector of any other school district of the State, in which case the board of education shall credit him with the amount to which he shall be entitled by virtue of the said section. (*As amended by L. 1912, ch. 438.*)

§ 182 It shall be the duty of the board of education to proceed with the account of money so credited to the city chamberlain, the same as trustees are directed to do under like circumstances by section 73^b, title 7 of the law aforesaid. All the provisions of sections 74, 75, 76 and 77^c of said title 7 of the aforesaid law shall have the same application to the taxes of this school district as to those of other school districts of the State. The board of education shall also have the same power to sue for and collect any tax as is given by section 85^d of said title 7 of the aforesaid law to trustees of school districts.

§ 183 All moneys raised pursuant to the provisions of this title, and all school moneys by law appropriated to or provided for, or received from any source for said city, shall be paid to the treasurer appointed by the board of education, who, together with the sureties upon his official bond, shall be accountable therefor.

§ 184 All moneys raised by virtue of this title, or received from any other source, for the use of the public schools in said district, shall be deposited with the said treasurer for safekeeping thereof, to the credit of the board of education, until drawn as hereinafter provided.

§ 185 The treasurer of the board of education shall, at the proper time in each year, draw upon the county treasurer, or other proper officer, for all moneys appropriated to said district from the common school, literature or other funds of this State; and he is hereby authorized to receive the same for the said district as provided in the preceding section.

^a Superseded by § 433 of Education Law (L. 1909, ch. 21 as generally amended by L. 1910, ch. 140).

^b Superseded by § 434 of Education Law.

^c Superseded by §§ 435-38 of Education Law.

^d Superseded by § 432 of Education Law.

§ 186 The said treasurer shall pay out the moneys received by him by virtue of this act only upon drafts drawn by the president and countersigned by the secretary of the board of education, which drafts shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be payable to the person or persons entitled to receive the money thereon. The treasurer, when required to do so by the board of education, shall make to it a written statement of the moneys received and disbursed by him on its account, together with the amount in his hands at the time of such statement. At the end of his official term he shall settle with the said board of education, and pay to his successor in office, to the credit of the said board, all moneys remaining in his hands subject to its order.

§ 187 The board of education may cause a suit or suits to be prosecuted in its corporate name, upon the official bond of the city chamberlain or treasurer of the board for any default, delinquency or official misconduct in relation to the collection, safekeeping and payment of any money in this title mentioned.

§ 188 The said board of education shall have the power and it shall be its duty:

- 1 To organize, establish and maintain such and so many schools in said school district, including the common schools and high school now existing therein, as it shall deem requisite and expedient, and to alter and discontinue the same.

- 2 To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses, and to fence and improve them.

- 3 Upon the lots and sites owned by said board of education, to build, enlarge, alter, improve and repair schoolhouses, outhouses, and appurtenances, as it may deem advisable; and to borrow money for any of such purposes, and to make and issue certificates of indebtedness or other obligations therefor, which shall be binding upon said school district; said money shall be borrowed and said certificates or obligations issued therefor, only in anticipation of the collection of the school tax, and for amounts actually contained, or to be contained, in the school tax, for the year in which such certificates or obligations are issued, and payable out of such tax. Such certificates or obligations shall be due and payable at any stated time within five years from the date of issue, and with the money realized from the collection of such tax. (*As amended by L. 1912, ch. 438.*)

- 4 To purchase, exchange, improve and repair school apparatus, books for pupils (save as hereinbefore provided), furniture and appendages, and to provide fuel for the schools, pay the necessary insurance on buildings and school property and to defray contingent expenses of the school library.

- 5 To have the custody and safekeeping of the schoolhouses and all school property belonging to said district, and to see that the ordinances of the board in relation thereto be observed.

- 6 To contract with, examine, license and employ all teachers in said schools for such term or terms of years of service as it may deem advisable for the best interests of the several schools, and at its pleasure remove them. (*As amended by L. 1909, ch. 250.*)

7 To pay the wages of such teachers out of the money appropriated and provided by law, or by this act, for the support of common schools in said district.

8 To defray the necessary contingent expenses of the board, including the annual salary of its officers.

9 To have in all respects the superintendence, supervision and management of the schools of said district, and, from time to time, to adopt, alter, modify and repeal, as it may deem expedient, rules and regulations for their organization, government and instruction, and for the reception of the pupils and their transfer from one class to another, or from one school to another, and generally for their good order, prosperity and utility.

10 To sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the district, when authorized to do so by a majority vote at any regular or special election of the voters of the district, upon such terms as the board shall deem most advantageous; and the proceeds of all sales shall be paid to the treasurer and shall be by said board of education expended in the purchase, repairs or improvements of schoolhouses, sites or appurtenances, furniture or apparatus.

§ 189 Whenever in the opinion of the board of education it shall become advisable to erect any school building, the estimated cost of which shall exceed ten thousand dollars, it shall cause an estimate of the cost of such building to be made, and shall cause the question of raising the amount required by tax to be submitted to the decision of the voters of the school district, in such manner as it deems best calculated to procure a fair expression from said voters. In case the tax shall be voted, the same may be raised by instalments, the amount of which, and the times of payment, shall be left optional with the board of education.

§ 190 The academy or high school, connected with the school system contemplated by this act, shall be recognized as one of the academies of this State, subject to the visitation of the Regents, and shall be entitled to participate in the distribution of the income of the literature fund and other funds in the same manner and upon the same conditions as the other academies of the State; and the Regents of The University of the State of New York shall pay annually to the board of education of Ithaca the distributive share of the said funds to which the said academy or high school shall be entitled.

§ 191 Said board of education shall make reports annually to the State Superintendent of Public Instruction and at such other times as he may request.

§ 192 The State Superintendent of Public Instruction shall apportion State school moneys to the city of Ithaca in the same manner as to the other cities of this State. The treasurer of Tompkins county shall, upon the draft of the treasurer of the board of education, pay annually to him the sum thus certified as due the said school district.

§ 193 The schools organized under this act shall be free to all pupils between the ages of 5 and 21 years who are actual residents of said school district. The board of education shall decide all questions of residence arising under this section. The said board may allow the children of nonresidents to attend the schools

of said district, and shall prescribe the rates of tuition of such nonresidents, payable always in advance.

§ 194 The said board of education shall be the trustees of the school district library of said district, and all the provisions of law which are now in force or hereafter may be passed, relative to school district libraries, shall apply to said board of education in the same manner as if it were trustees of a school district. It shall be vested with the same discretion as to the disposition of moneys, appropriated by the laws of this State for the purchase of libraries, which is herein conferred on the inhabitants of school districts, and it shall have the power to purchase, exchange, repair or dispose of any books or other property of said library, or cause it to be done, and apply the proceeds to the purchase of other books or apparatus; also, to provide suitable rooms and furniture for said library, and further it may appropriate for the benefit of said library, out of the moneys annually raised in said district by the school tax, an amount not exceeding two hundred and fifty dollars, in addition to the library money received from the State.

§ 195 The title of the schoolhouses, sites, furniture, books, and all other school property now, or hereafter belonging to the school district of the city of Ithaca, or to the board of education of the city of Ithaca, is and shall be vested in the board of education of the city of Ithaca; and the same while used or appropriated for school purposes shall not be levied on or sold by virtue of any warrant or execution or other process, nor be subject to taxation for any purpose whatever; and the said board of education of the city of Ithaca, in its corporate capacity, shall be competent to take, hold and dispose of any real or personal estate, transferred to it by grant, gift, bequest or devise, for the use of the common schools or academy of said school district, whether the same be transferred in terms to said board of education by its proper style or by any other designation, or by any person or persons, or corporation, for the use of said schools or academy. (*As amended by L. 1912, ch. 438.*)

§ 196 It shall be the duty of the board of education between the 1st and 15th days of October of each year, to prepare and publish in one or more of the newspapers printed in the city of Ithaca, a true and correct statement of the receipts and disbursements under the provisions of this act, for the preceding year ending August 31st, in which account shall be stated under appropriate heads:

1 The money raised by the board of education and received by the treasurer for its use.

2 The school moneys received by its treasurer from the county treasurer.

3 All other moneys received by its said treasurer subject to the order of the board of education, specifying the sources from which they shall have been derived.

4 The manner in which such sums of money shall have been expended, specifying the amount under each head of expenditures, and the person or persons to whom the money has been paid except such lists of persons as have already been published.

5 Such other information as said board shall deem proper in regard to the condition of the schools under its care.

§ 197 It shall be the duty of the clerk of the city immediately after the election or appointment of any person to any office mentioned in this title, personally or in writing to notify him of his election or appointment, and any person who, without sufficient cause, shall refuse to serve therein shall forfeit the sum of ten dollars; and every person so elected or appointed, and not having refused to accept, who shall neglect to discharge the duties of said office shall forfeit the sum of twenty dollars to said board of education. It shall be the duty of said board of education forthwith to prosecute for all forfeitures and penalties under this title when voluntary payment is refused; and to apply all money when received to the purpose of education in said district. All officers mentioned in this title shall be deemed public officers within the intent and meaning of the public officers law and the Penal Code, and as such liable to the penalties therein prescribed, in addition to the penalty in this section before provided.

§ 198 The board of education may, when it shall deem it advisable, appoint a superintendent of schools for the said school district, who may ex officio be secretary of said board. He shall be under the direction of the board of education, and it shall prescribe his general duties. In addition to such other duties as may be devolved upon him by the board in the visitation and superintendence of the schools he shall examine the qualification of teachers, and grant certificates in such manner and form as may be prescribed by the State Commissioner of Education, which shall not be in force longer than a year, and which may at any time be revoked by the board of education. He shall be paid a salary out of the general fund, to be fixed by the board of education, and may be removed from office by the vote of a majority of all the members of the board.

§ 199 All former or existing acts, or parts of acts, conflicting or inconsistent with the provisions of this title, are hereby repealed, so far as they affect this title, but nothing in this title shall be so construed as to limit, restrain or annul the powers of the Superintendent of Public Instruction. In all matters of dispute which shall be referred to him by appeal, and which shall arise under and by virtue of this title, or under and by virtue of any other act which is now, or shall hereafter be applicable to the schools, school officers or school property of or in said district, his decision or orders shall be final and binding.

Section 208 provides that a vacancy in the office of commissioner of education shall be filled by the board of education.

JAMESTOWN

Chapter 279, Laws of 1887

An act to establish and define the territory and boundaries of the union free school district of the city of Jamestown and to regulate the supervision and control of said district

Section 1 The school district heretofore known as union free school district number 1 of the town of Ellicott in the county of Chautauqua, shall hereafter be known and designated as the union free school district of the city of Jamestown, and the territory and boundaries of the said city of Jamestown shall be and constitute the territory and boundaries of the said school district. Whenever the boundaries of said city of Jamestown shall be changed or altered, the act making such change or alteration shall be construed to change the boundaries of said school district so that at all times the boundaries and territory of said city and of said school district shall be the same.

§ 2 The supervision and control of said union free school district shall be and remain in the existing board of education of the said district and their successors in office; and the title to all school sites and property in the territory by this act annexed to said district, shall be vested in the said board of education the same as school sites and property now in said district. The annual school meeting of said district shall be held at the same time fixed by the general school law in this State for other union free school districts and the election of members of the board of education thereof, shall be had on the day succeeding the annual school meeting, as heretofore. No change shall be made in the management, direction or supervision of said school district, including the raising, assessment and levying of taxes, or in the election or time of election, appointment or time of appointment, of any officer or officers thereof, by reason of the boundaries of said school district corresponding with the boundaries of said city. The said union free school district shall be subject to all the provisions of chapter 555 of the Laws of 1864, entitled, "An act to revise and consolidate the general acts relating to public instruction," and the several acts amendatory thereof and supplemental thereto, which are applicable to union free school districts whose limits do not correspond with the limits of an incorporated village or city, except so far as such provisions are inconsistent herewith; and provided further, that nothing herein contained shall be construed to repeal the provisions of the charter of the city of Jamestown, making the treasurer of said city the collector of said school district, and prescribing the manner in which the taxes thereof shall be collected.

§ 3 The board of education of said school district shall have power to appoint a superintendent of common schools of said city, who shall hold his office for the term of three years, unless sooner discharged by said board, at an annual salary

fixed by said board of education. Such superintendent shall have, under the control of the said board of education, the general supervision of all the common schools within the said city, with authority to license all teachers employed in the common schools thereof, and to perform generally all duties now imposed by law upon commissioners of common schools. Whenever such superintendent shall be appointed, the said district shall be entitled to the benefits of the provisions of section 6 of title 3 of chapter 555 of the Laws of 1864, and the amendments thereto.

§ 4 Chapter 441 of the Laws of 1877, is hereby repealed.

§ 5 This act shall take effect on the 10th day of August, 1887.

JOHNSTOWN

Chapter 593, Laws of 1905

An act to revise the charter of the city of Johnstown

ARTICLE X

BOARD OF EDUCATION; SCHOOLS

- Section 220 City as school district
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Section 220 **City as school district.** The city of Johnstown shall constitute a union free school district, which shall be known as "the union free school district of the city of Johnstown."

§ 221 **The board of education; corporate powers.** All public schools of the city of Johnstown shall continue to be under the management and control of a board of nine members, to be elected as hereinafter provided, who shall constitute and be known by the name of "the board of education of the city of Johnstown," and said board of education is hereby constituted a body corporate, in relation to all the powers and duties conferred upon it by this act or by any general law, and may sue and be sued by the corporate name afore-said, and shall have a corporate seal. It may take and hold for the use of said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise or any gift, legacy or annuity of whatever kind, given or bequeathed to said board, and apply the same or the interest or proceeds thereof according to the instructions of the donor or testator.

§ 222 **Succession to property and obligations.** The title to all real estate

and personal property formerly belonging to the union free school district number 4, of the town of Johnstown, New York, and to common school district number 5, of the town of Johnstown, New York, and heretofore vested in the board of education of the city of Johnstown, shall continue to be vested in such board, and all moneys and funds belonging to each of said districts heretofore paid over and delivered to the chamberlain of said city shall continue to be credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said union free school district number 4, and the said school district number 5, have heretofore been transferred to, vested in and imposed upon said board of education of the city of Johnstown; and the rights and privileges of all persons that may have arisen or accrued prior to May 9, 1895, shall remain and be enforced by or against the board of education of the city of Johnstown and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of education of union free school district number 4, and said school district number 5, subject, however, to the provisions of this act.

§ 223 **Annual election of school officers.** The annual election for school officers in said city shall be held on the first Tuesday of August in each year, and there shall be elected each year at such election three members of the board of education of said city for a term of three years each, and other members, to fill such vacancies as may have occurred during the preceding year, for the unexpired terms of those members whose offices may have become vacant. The board of education shall give notice of each annual election for members of said board, by notice signed by its president and clerk; which notice shall be published in the official newspapers of said city at least once each week for two successive weeks immediately preceding such election; said notice shall designate the polling places at which such annual election shall be held, and the wards of the city for which each polling place shall serve, and the officers to be elected thereat, together with the terms for which they are to serve respectively. The board of education shall designate at least two polling places for each annual election in said city, which shall not be in the same ward, and shall not be held in any school building, and the particular wards for which each polling place shall serve. The inspectors of the election district in which such election shall be held, shall preside and conduct such annual election at the places designated by the board. The clerk of the board of education shall each year, at least ten days before the date of such annual election, notify such inspectors by notice mailed to each of them in the post office of said city, of every such election and of the polling places designated by the board; said elections shall be opened at each polling place at ten o'clock in the forenoon, and shall be kept open without intermission or adjournment until four o'clock in the afternoon, when the same shall be closed, and the inspectors shall forthwith, without intermission or adjournment, canvass all votes cast, declare and make a statement of the result and shall forthwith file such statement of the result with the clerk of the board of education of said city, together with the list of persons so voting or offering to vote at said election. Every inhabitant of said city, who at the

time and place of offering his or her vote, shall be qualified to vote for school officers under the general laws of this State relating to public schools, shall be entitled to vote at such elections, but no such inhabitant shall vote at any polling place except that designated by the board of education, for the ward in which he or she shall reside at the time of offering such vote, and shall have so resided for at least thirty days immediately prior to such election. On the day following each annual school election in said city, the board of education shall convene at seven o'clock in the afternoon at its usual place of meeting, as designated by said board, and all the statements of the votes cast at each of the polling places, designated as aforesaid, shall be produced; the board of education shall forthwith declare the result and make a certificate in writing of all those who were duly elected, and file the same with the clerk of said board, and shall immediately file a duplicate thereof, signed by the president and clerk in the office of the clerk of said city. The clerk of the board shall immediately¹ notify, by mail, each person declared elected of his election. The persons so elected shall, before the annual meeting of the board of education, as herein provided, take the official oath required by section 19 of this act and file the same in the office of the clerk of the city.

§ 224 **Annual meeting of the board of education.** The annual meeting of the board of education shall be held, at a place to be designated by such board, on the second Tuesday of August in each year, at half past seven o'clock in the evening. At each such annual meeting the board of education, as constituted for the preceding year, shall be dissolved, and the board of education, composed of the persons elected at the annual school election, and those whose terms of office shall not have expired, shall then be organized by the election of one of their number as president of the board and some suitable person as clerk.

§ 225 **Clerk of board of education.** The board of education shall fix the compensation to be paid to the clerk of the board, and may remove him at pleasure. He shall keep a record of the proceedings of the board and perform such other duties as the board shall prescribe.

§ 226 **Meetings of the board of education.** The board of education shall hold regular meetings at least once in each month at such time and place as the board shall designate. The president of the board or any three members may call a special meeting of the board by causing a written notice thereof specifying the objects of the meeting to be served by the clerk upon each member of the board, not joining in such notice, personally, or by mail, directed to his place of residence or place of business, at least twenty-four hours before the time of such meeting. All the meetings of the board of education shall be public, except when the public interest shall require secrecy; but no vote shall be taken in secret or executive session.

§ 227 **Rules; quorum; voting.** The board of education may adopt rules for its own government, and for the regulation and exercise of its lawful business and powers. It shall be the judge of the election and qualification of its own

¹ So in the original.

members. A majority of the members of the board shall constitute a quorum for the transaction of business. A majority of the members present and voting at any meeting of the board at which a quorum shall be present shall be sufficient to pass any resolution, except that no resolution authorizing or involving the expenditure of money or collection of money by a tax or assessment shall pass unless it receive the assent of a majority of all the members in office, and except as otherwise provided by this act. At all meetings of the board each member shall have one vote. The ayes and noes shall be called and recorded on all resolutions.

§ 228 **Vacancies in board of education.** Any vacancy in the board of education occurring otherwise than by expiration of term shall be filled by appointment by such board. If such vacancy occurs in the official school year prior to the time for publishing the notice of the annual school election, the person appointed to fill such vacancy shall hold office until the end of the official school year in which such vacancy occurs. If the vacancy occurs in the official school year subsequent to the time for publishing the notice of the annual school election, and the term of office of the member vacating his office extends beyond the end of the current official school year, the person appointed to fill such vacancy shall hold office until the end of the next official school year. If the term of office of the member vacating his office continues beyond the official school year in which such vacancy occurs, and such vacancy occurs prior to the time for publishing the notice of the annual school election, a person shall be elected at the next annual school election after the occurring of such vacancy to fill such vacancy for the remainder of the unexpired term.

§ 229 **General powers and duties of the board of education.** The board of education of the city of Johnstown, subject to the provisions of this act, shall have power and it shall be their duty:

1 To establish, organize and maintain such and so many schools in said city, including the common schools and high schools now existing therein, as said board shall deem requisite and expedient, and to alter or discontinue the same, in their discretion.

2 To purchase or hire, sell or dispose of schoolhouses, lots or sites, as they may deem advisable.

3 To erect, alter, improve and repair schoolhouses and appurtenances as they may deem advisable.

4 To purchase, sell, exchange, improve and repair school apparatus, books, furniture and appendages and defray the necessary expenses thereof; provide fuel for the schools; to keep buildings and school property insured in such amounts as they may deem proper; and to pay the necessary premiums therefor, and to pay the contingent expenses of the school library.

5 To have the custody and safekeeping of school property belonging to said district and to see that the ordinances of the common council in relation thereto are observed.

6 To contract with and employ all necessary teachers and at their pleasure

remove them, subject to the provisions of law and the rules and regulations established by the Department of Public Instruction of this State.

7 To pay the wages of teachers out of any money provided or appropriated¹ by law for that purpose.

8 To employ a superintendent of instruction for said city, to remove him at their pleasure, and to fix and pay a salary out of any money provided for that purpose; and said superintendent may be appointed clerk of the board and librarian, or either, in the discretion of the board.

9 To pay the necessary contingent expenses of the board and of the said district, including the wages of clerk, janitors and other assistants and employees.

10 To license teachers employed in the schools of said city, in the same manner and with like effect in said city, as school commissioners of counties.

11 To take and appropriate lands and other real property within said city for school purposes, where the owner or owners of them shall not consent to sell the same for such purposes, or the board of education can not agree with such owner or owners or some of them upon the price or value thereof, by condemnation proceedings under the provisions of the condemnation law, chapter 23 of the Code of Civil Procedure.

12 To have, to the exclusion of all boards and officers, except the Superintendent of Public Instruction of this State, the entire supervision and management of the schools in said city, and from time to time to adopt, modify or repeal, as they may deem expedient, rules and regulations for their reorganization, government and instruction, for the reception of pupils and their transfer from one schoolroom or house to another, for their advancement, from class to class as their degree of scholarship shall warrant, and generally for the promotion of the good order and prosperity of said schools.

13 To allow the children of persons not residents within the city to attend any of the schools therein, under the control of said board, upon such terms and conditions as said board may by resolution prescribe.

14 Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

15 Except as otherwise provided in this act, to exercise all the powers conferred, and discharge all the duties imposed by the general laws of this State, applicable to boards of education in cities.

16 To establish and maintain a library and provide rooms for the use of the same, and to employ a librarian to have the care of the books and other publications belonging thereto, and to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries, as is conferred upon the inhabitants of school districts.

17 To transfer to the city of Johnstown real property held by them which has ceased to be used for school purposes.

§ 230 **Records of board as evidence.** The records and proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts and places as prima facie evidence of the facts therein stated.

¹ So in the original.

§ 231 **Determination of amount of annual school tax levy.** On or before the 1st day of July, in each year, the said board of education shall prepare a certificate of such sums of money as it may deem necessary for each of the following purposes, namely:

1 For wages of superintendent and teachers, after applying all the public school and other moneys applicable thereto.

2 For the repair of schoolhouses, outhouses, and grounds with their appendages¹ and appurtenances.

3 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

4 For the rent of schoolhouses and rooms for school purposes.

5 For the purchase, maintenance and care of the library.

6 For the purchase of fuel and lights and to pay the contingent expenses of the district, including the salaries of the clerk, librarian, janitors and incidental expenses.

Such certificate shall be presented to the mayor or acting mayor of said city, and, if he approves, he shall sign it and immediately file the same with the city clerk; if he does not approve any item therein, he shall, within five days, return the same to the president or clerk of said board of education, with his objections indorsed thereon or annexed thereto. The board of education may then proceed to reconsider said certificates, and, if two-thirds of all the members then in office agree to pass the same, it shall take effect the same as if it had been approved by the mayor, and it shall be immediately filed with the city clerk. In case two-thirds of said members do not agree to pass the same, they shall thereupon present another certificate, conforming, as nearly as may be, to the views of the mayor as expressed in his objections, and, if he approves it, he shall sign the same, but if he does not approve any item thereof he shall, within twenty-four hours, return the same with his objections as before. The board of education shall continue to present certificates as aforesaid until the mayor's approval is obtained, or until two-thirds of its members agree to pass the same over his objections, and said certificate when this¹ approved or passed shall be filed with the city clerk. Upon the filing of said certificate so approved or adopted it shall be the duty of the common council of said city to raise, by tax to be levied upon all the real and personal property in said city as by law provided for the levying of State and county charges, such sum or sums as said board of education shall so certify. For this purpose the common council shall cause to be prepared duplicate copies of the assessment roll filed by the assessor for the levying of State and county taxes for the current fiscal year, and shall cause the amount authorized to be raised for school purposes as aforesaid to be rated and assessed upon the property of each person, company, corporation or association appearing on said assessment rolls. When said common council shall have completed and approved said assessment roll, they shall attach to one copy thereof a warrant under the hands and seals of the mayor and a majority of the aldermen in office,

¹ So in the original.

commanding the chamberlain to receive and collect said taxes in the same manner as taxes laid by said city for State and county purposes, and the same shall be delivered with the other copy roll to the city clerk. The city clerk shall attach a copy warrant to the other copy roll and a receipt for the chamberlain, and shall deliver said tax roll and warrant to the chamberlain and take his receipt therefor. Said tax, when collected, shall be credited by the chamberlain to the various school funds as designated in said certificate.

§ 232 **Fees and proceedings of chamberlain in collecting school taxes.** Upon receiving said roll the chamberlain shall give notice in the official papers of the city, of the receipt by him of such assessment roll and warrant, and that all persons named therein are required to pay their taxes at his office within thirty days next ensuing; within said thirty days such taxes may be paid and shall be received without additional¹ charge, for fifteen days thereafter two per centum fees shall be collected and thereafter five per centum fees shall be collected. If any such tax shall remain unpaid at the expiration of said thirty days, the chamberlain shall serve notice upon every person from whom such tax is due requiring said tax to be paid within fifteen days thereafter, which notice shall be served in the manner and with the like effect as provided in section 96 of this act for the collection of State and county taxes. At the expiration of the time mentioned in said notice it shall be the duty of the chamberlain to proceed with the collection of the school taxes then remaining unpaid in the same manner as provided in section 97 of this act for the collection of State and county taxes, except that the warrants issued by him shall be returnable on or before the 1st day of December. All other proceedings in reference to the collection of the school taxes of said city shall be had in accordance with the provisions of this act with reference to the collection of State and county taxes.

§ 233 **Chamberlain authorized to borrow moneys for current expenses.** Whenever any such sum or sums to be raised for school purposes shall have been so certified, approved and filed with the city clerk, the city chamberlain shall have authority and it shall be his duty under the direction of said board to borrow upon the faith and credit of said city so much of the amount so certified as may be deemed by said board to be actually necessary to meet the current expenses of said district, and the amount so borrowed shall be repaid from the moneys raised by said annual tax levy. Whenever the moneys so raised for school purposes, or any particular fund thereof, shall be exhausted, it shall be the duty of the city chamberlain to certify such fact to the board of education, and the board of education shall thereupon immediately prepare and present to the mayor a certificate of such sum or sums of money as will be required until the next annual tax levy as above provided; and the said certificate, after approval by the mayor or adoption by the board in the manner hereinbefore provided, shall be filed with the city clerk, and the city chamberlain shall have authority to borrow upon the faith and credit of the city, the amount so certified, and to place the same to the credit of the school moneys of said board of education or the particular fund

¹ So in the original.

for which the same was raised, and pay the same out to meet the warrants of the board of education. Any amount so borrowed shall be included in the next annual tax levy for the schools of said city.

§ 234 **School funds to be disbursed upon warrants of the board of education.** All public moneys or funds belonging to or appropriated to the use of said district shall be paid to the chamberlain of the city, who shall keep the same separate from the general funds of the city, and shall credit to each of said school funds the moneys or property belonging thereto. The board of education shall disburse all the funds of said district by warrants upon the chamberlain, signed by the president of said board and countersigned by the clerk. Said warrants shall be numbered consecutively and shall specify the purpose for which they are drawn, the person to whom payable and the particular school fund to which they are chargeable. The clerk shall keep a record of every such warrant. Upon request from said board the chamberlain shall certify from time to time the various balances remaining to the credit of any or all of said funds. All accounts and claims against said school district or the board of education of whatever nature shall be presented to said board for audit. It shall be the duty of said board of education to inquire and examine into said claims and accounts, and they may take proofs on oath in relation thereto and audit the same. The board may prescribe the form of affidavit to be sworn to and annexed to all bills and claims against said district or board.

§ 235 **Annual settlement with chamberlain.** The board of education shall annually in the month of December in each year examine the accounts of the city chamberlain with reference to the school funds and certify their correctness, if found to be correct, and report the result of their examination to the common council. At the expiration of the term of office of any chamberlain or immediately prior thereto, said board shall have a settlement with the chamberlain for all school funds that may have come into his hands, and shall certify to the common council all funds remaining in the hands of said chamberlain or due from him for or on account thereof and which shall be delivered to his successor in office.

§ 236 **Special school elections.** When the board of education shall determine by resolution that it is necessary to purchase any site, erect any school building, or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased, or building erected or enlarged, and the particular sum required for each separately. They shall then call a special school election in said city in the same manner as is provided in this act for the calling of special elections by the common council. Such special school elections may be held at the same time and with any other election in said city. The clerk of the board of education shall notify the inspectors of the holding of said special school election in the same manner and within the same time that the city clerk is required to notify them in cases of special elections called by the common council. The inspectors shall thereupon proceed to hold such election pursuant to such resolution, and in the same manner as in holding other special elections under this act, and the qualifications of the electors thereat shall

be determined by the general school law of the state applicable to cities. When such special school election is not held at the same time and with a city or school election, or a special election called by the common council as provided in this act, the board of education shall designate the polling places as at other school elections and such special school election shall be held by the same inspectors as under a like designation for an annual school election and during the same hours and in the same manner. Each elector at every such special school election shall vote only at the polling place designated for the ward in which he resides, and shall have resided for the thirty days immediately prior to said special school election. The vote shall be taken by ballot, which shall be indorsed "school proposition," and shall be deposited in a separate ballot box provided therefor, and marked "school proposition." The board of education shall at every such special school election provide sufficient printed ballots for the use of the electors thereat upon which shall be printed the several items or objects to be voted for thereat with the words "for" and "against" at the beginning of each item. Each elector shall indicate his vote as to each of said items by erasing or drawing a mark through the one or the other of said words. The inspector shall canvass said votes without intermission or adjournment, as at other elections, and make a statement thereof in respect to each item voted upon and immediately file the same with the clerk of the board of education. Upon the day following such special school election the board of education shall convene at its usual place of meeting at seven o'clock in the evening, and the statement from each polling place shall be produced, and the board of education shall forthwith declare and make a certificate in writing of the result. In case a majority of the votes cast be in favor of any of said propositions the chamberlain shall have authority under the direction of the board of education to borrow upon the faith and credit of said city the aggregate of the items having such majority or any part thereof at any time before and until the same can be levied and collected according to law. The moneys so borrowed shall be deposited with the chamberlain. Whenever the board of education shall deem it inexpedient to raise the amount so voted at the next annual school tax levy, they shall make a certificate to that effect and file the same in the office of the city clerk. Such certificate shall state the amount to be raised and included in the next annual tax levy and the amount to be borrowed as hereinafter provided. And upon the filing of such certificate the said board of education shall have power to borrow upon the faith and credit of the city so much of the sum voted as is not to be included in the next annual school tax levy at a rate of interest not exceeding five per centum per annum, and to issue bonds or other evidences of indebtedness therefor, payable in instalments in not more than thirty years from the date thereof, which shall be a charge upon said city and be paid at maturity, and which shall not be sold below par. Said bonds or other evidences of indebtedness shall be prepared by the board of education, signed by the president and clerk thereof, and delivered to the chamberlain of said city, who shall countersign the same and give due notice of the time and place of the sale of such bonds by publishing such notice once in each week

for at least two weeks prior thereto, in the official newspapers of said city. (*As amended by L. 1910, ch. 660.*)

§ 237 **Report of municipal bonds.** The board of education annually, on or before the 1st day of July in each year, shall report to the city clerk for record therein as required by sections 9 and 10 of the general municipal law, a full description of the amount, rate of interest, class, number, date of issue, pursuant to what law, and maturity of all bonds issued by the board of education or any of its officers, and of all bonds converted from coupon into registered bonds. Whenever any of such bonds are paid and canceled a proper certificate of the facts shall be made and filed for record with the city clerk.

§ 238 **Annual report of the board of education.** It shall be the duty of the board of education on or before the 15th day of July in each year to make to the common council and file with the city clerk a detailed report of the manner in which it shall have expended the moneys provided for and appropriated to school purposes from any source during the last fiscal year of said board, and such report shall be published forthwith by said board of education in the official newspapers of said city.

§ 239 **Common council to pass necessary school ordinances.** The common council of the city of Johnstown shall have the power and it shall be its duty to pass such ordinances as the board of education of said city shall report as necessary for the protection, safekeeping, care and preservation of the school buildings and other property of said district and to impose such penalties for the violation of the same as it shall deem proper.

§ 240 **Right to vote for school commissioner.** The electors of the city of Johnstown shall have the same right as is now possessed by the electors of the several towns of Fulton county to vote for school commissioner for the county of Fulton, notwithstanding any provisions of this act.

§ 241 **Fiscal and official school years.** The fiscal year of said board of education shall commence on the 1st day of July in each year. The official school year shall commence on the second Tuesday in August in each year.

ARTICLE II

§ 10 **City officers.** The elective officers of the city shall be a mayor, a recorder, a chamberlain, an assessor, nine members of the board of education, one alderman-at-large, and one water commissioner-at-large; and two aldermen, one water commissioner and one supervisor for each ward. The appointive officers of said city shall be a city clerk, a superintendent of streets, a superintendent of water works, a city attorney, a city engineer, a city physician who shall also be the health officer of the city, a commissioner of charities, a city board of health consisting of six members, an inspector of plumbing, a chief engineer of the fire department, and a first assistant and second assistant engineer of the fire department, a chief of police and not to exceed four regular uniformed policemen, and such other special policemen as are hereinafter provided for, and not to exceed ten commissioners of deeds, and such other appointive officers as may be authorized by general laws.

§ 11 **Manner of choosing city officers.** The mayor, recorder, chamberlain, assessor, members of the board of education, alderman-at-large and water commissioner-at-large shall be elected by ballot by the qualified electors of the city. The aldermen and water commissioner and supervisor for each ward shall be elected by ballot by the qualified electors thereof. The city clerk shall be appointed by the common council and the board of water commissioners in joint session. The superintendent of streets shall be appointed by the common council. The superintendent of water works shall be appointed by the board of water commissioners. The city attorney, the city engineer, and the city physician shall each be appointed by the mayor subject to the confirmation of the common council. The commissioner of charities shall be appointed by the mayor. The members of the board of health shall be appointed by the common council upon the nomination of the mayor in the manner and for the terms prescribed by article three of the public health law. The chief engineer of the fire department, the first assistant and the second assistant engineer of the fire department, the chief of police, policemen and special policemen shall be appointed as hereinafter provided. The commissioners of deeds shall be appointed by the common council from time to time as may be deemed necessary. Appointments for a full term, in any official year in which appointments are to be made for such term, shall be made as follows: if by the mayor, at the first meeting of the common council in such year; if by the common council, at its first meeting in such year; if by the mayor with the confirmation of the common council, at such first meeting or at a time not later than the 14th day of January to which such meeting shall have been adjourned; if by the common council and the board of water commissioners acting jointly, the appointment shall be made at a joint session of such bodies to be held on the 1st day of January in such official year or, in case such day falls on Sunday, on the next day thereafter. The inspector of plumbing shall be appointed by the board of health of the city on or before the 15th day of January. Except as otherwise provided in this act no appointment for a full term shall be made at a time other than as above prescribed. Appointments to fill vacancies shall be made as provided in section 23 of this act. (*As amended by L. 1910, ch. 660.*)

§ 12 **Terms of office.** The term of office of the mayor, recorder, chamberlain, assessor, aldermen and alderman-at-large, water commissioners and water commissioner-at-large, supervisors, chief engineer of the fire department, and commissioners of deeds shall be two years. The term of office of the members of the board of education shall be three years. The term of office of the city clerk, city attorney, city engineer and of the city physician and health officer shall be one year until January 15, 1912, and on and after that date shall be two years. The term of office of the superintendent of streets, superintendent of waterworks, the first assistant engineer and second assistant engineer of the fire department shall be one year. The commissioner of charities, the chief of police and each of the four regular uniformed policemen shall serve for a term which shall expire with the expiration of the term of office of the mayor. (*As amended by L. 1910, ch. 660.*)

§ 13 **Commencement and expiration of terms of office.** The term of office of each elective officer shall commence with the 1st day of January succeeding his election. The term of office of each appointive officer, except the commissioner of charities, the chief of police, and each of the four regular uniformed policemen, shall commence with the 15th day of January of the official year in which the appointment is required to be made. The term of office of the commissioner of charities, of the chief of police, and of each of the four regular uniformed policemen shall commence on the first day of January of such year. Each city officer shall hold over after the expiration of his term and until his successor is chosen and has qualified. The term of office of the supervisors shall commence and expire at the same time as the terms of supervisors of the towns of the county of Fulton. (*As amended by L. 1910, ch. 660.*)

§ 14 **Eligibility.** No person shall be eligible to a city office unless at the time of his election or appointment he is a resident elector of the city, except that the city engineer need not reside therein; and if elected by a ward of said city, unless at the time of his election he is also a resident of the ward for which he shall be elected. If a city officer shall cease to be a resident of the city his office shall thereupon become vacant. If a city officer elected by a ward of the city shall cease to be a resident of such ward, his office shall thereupon become vacant. A recorder hereafter elected shall at the time of his election have been admitted to practice in this State as an attorney at law for a period of three years. No person shall at the same time hold more than one office under this act except as otherwise provided therein. But a commissioner of deeds may also hold any other city office, and one of the supervisors of the city may be appointed as commissioner of charities.

§ 15 **City elections.** A general city election shall be held annually on the Tuesday next succeeding the first Monday in November at the time and at the places fixed for holding the general election. There shall be elected at each general city election successors to all elective city and ward officers whose terms will expire before the date of the next general election, and vacancies in elective offices shall be filled at such election as hereinafter authorized. Such election shall be conducted, and the votes cast thereat canvassed by the inspectors, and the returns thereof made, in the manner provided by the election law. Except as hereinafter otherwise provided, the election law shall apply to and govern all elections in said city.

§ 16 **Canvass of votes by common council.** The common council shall meet as a board of city canvassers on the next Monday after each annual city election. The city clerk shall present to the common council at such meeting the certified statements of the results of such election in the several election districts of the city, as delivered to him by the inspectors of election. The common council shall canvass such certified statements and determine and declare the whole number of votes cast for all the candidates for each office to be filled at such election, the number of votes cast for each such candidate, and what person was elected thereto. The persons having the greatest number of votes for the respective offices to be filled by the whole city, and those having the greatest number of

votes for the offices to be filled by the several wards shall be declared duly elected, and the common council shall thereupon make duplicate certificates in writing of all those who were duly elected at said election, to the various offices voted for at said election, one of which certificates shall be filed with the city clerk and the other with the clerk of Fulton county. Such canvass shall be made so far as practicable in the same manner as a canvass by a county board of canvassers, and the provisions of the election law relating to a canvass by a county board of canvassers shall apply to a canvass by the common council.

§ 17 **Certificates of appointment.** All appointments to city offices made as prescribed in this act shall be evidenced by a certificate in writing, signed by the appointing officer, and filed forthwith in the office of the city clerk. If an appointment be made by the common council, the board of water commissioners, or the common council and the board of water commissioners acting jointly, such certificate shall be signed by the officer presiding at the time the appointment was made, and attested by the city clerk.

§ 18 **Notice to persons elected or appointed.** The city clerk shall give notice, in writing, to every person elected or appointed to any office under this act of his election or appointment, within twenty-four hours after the certificate of his election or appointment has been filed in his office, which notice shall be served personally or by leaving it at the residence of such person.

§ 19 **Official oaths.** Every city officer shall, before he enters upon the duties of his office, take and file his official oath in accordance with article 13 of the constitution and section 10 of the public officers law, and for an omission so to do, he shall be subject to the liabilities and penalties prescribed by section 1820 of the penal law, and sections 13, 15 and 30 of the public officers law. The mayor, city clerk, recorder and each commissioner of deeds shall before he is qualified to administer oaths and take and certify affidavits and acknowledgments, take and subscribe the constitutional oath of office before the clerk of the county of Fulton. (*As amended by L. 1910, ch. 660.*)

§ 20 **Official bonds.** The city clerk, city engineer, commissioner of charities, recorder, chief of police, and each regular uniformed policeman, shall, before he enters upon the duties of his office, execute and file an official bond in accordance with sections 11, 12 and 13 of the public officers law; and for an omission so to do he shall be subject to the penalties and liabilities prescribed by section 1820 of the penal law, and sections 13, 15 and 30 of the public officers law. Except as herein otherwise provided, the penal sum named in any such bond, or the sum specified in any such undertaking as the maximum amount of liability thereon shall be fixed by the common council. (*As amended by L. 1910, ch. 660.*)

§ 21 **Compensation of city officers.** The annual salary of the recorder shall be eight hundred dollars; of the chamberlain, one thousand dollars, which shall include all expenses incurred by him for clerk hire or clerical assistance; of the city clerk, eight hundred dollars; of the city attorney, eight hundred dollars; of the city engineer, eight hundred dollars; of the commissioner of charities, two hundred and forty dollars; of the superintendent of streets, eight hundred dol-

lars; of the superintendent of water works, eight hundred dollars; of the city physician, two hundred dollars for his services as city physician, and one hundred dollars for his services as health officer. The assessor shall be entitled to compensation at the rate of three dollars per day, while actually engaged in the performance of his duties, but not exceeding a total compensation of four hundred and fifty dollars for his services in any one year. The supervisor of each ward shall be entitled to the same compensation for his services as the supervisor of a town is entitled to receive for like services. The inspectors of election shall receive the compensation provided by law, or such compensation as the common council may fix, not exceeding, however, the compensation fixed by general laws. No other city officer shall be entitled to receive from said city any compensation for his services unless otherwise provided by a general law or by this act. For the purpose of computing the compensation to which each officer is entitled his term of office shall be deemed to be the term of his actual service therein. The annual salaries as fixed by this section shall be payable in monthly instalments. Five hundred dollars of the salary of the chamberlain shall be paid by the common council from the contingent fund, three hundred dollars thereof by the board of water commissioners from the water fund, and two hundred dollars thereof by the board of education from the school fund. One-half of the salary of the city clerk shall be paid by the common council from the contingent fund, and one-half shall be paid by the board of water commissioners. The salary of the city physician, both as city physician and health officer, and the salary of the commissioner of charities shall be paid from the poor fund. (*As amended by L. 1907, ch. 42; L. 1910, ch. 661.*)

§ 22 **Fees and perquisites.** No city officer, except commissioners of deeds and city officers acting as commissioners of deeds, shall have or receive to his own use any perquisites, compensation or fees for services pertaining directly or indirectly, or which may hereafter be added, to the duties of his office, in addition to his salary or compensation, unless otherwise provided in this act; but any perquisite, compensation or fee legally chargeable for services performed by any such city officer shall be collected by him and paid into the city treasury to the credit of the contingent fund.

§ 23 **Vacancies.** Except as otherwise provided in this act, if a vacancy shall occur otherwise than by expiration of term in an elective city office, the common council shall fill such vacancy. If a vacancy occurs in an elective office prior to the time within which nominations for a general city election must be filed, the person appointed to fill such vacancy shall hold office until the end of the official year in which such vacancy occurs. If a vacancy in an elective office occurs subsequent to the time within which nominations for a city office must be filed, the person appointed to fill such vacancy shall hold office until the end of the next official year, if the term of office of the officer vacating his office extends through such year. If the term of office of the officers vacating his office continues beyond the official year in which said vacancy occurs and said vacancy occurs prior to the time within which nominations for a city office must be filed, a person shall be elected at the next annual city election after the occurring of

such vacancy to fill such vacancy for the remainder of the unexpired term. A vacancy occurring in any appointive office of the city, otherwise than by expiration of term, shall be filled for the balance of the unexpired term by the same authorities and in the same manner as an appointment for a full term.

§ 25 **Officers not to be interested in contracts or purchases.** The mayor, or any member of the common council, board of water commissioners, board of education or board of health, or any superintendent, clerk, agent or employee of said city, or of any such boards, shall not be voluntarily interested, directly or indirectly, beyond the compensation which he may be justly entitled to for services by him actually rendered as such officer, agent or employee, in any contract or work made or done by, for or on behalf of said city, or any municipal board therein; nor shall any such person be voluntarily interested, directly or indirectly, in the purchase or sale of any merchandise, material, substance or supplies for any of the uses or purposes of said city, nor shall any such person receive therefrom or thereon, or in consideration, or in consequence thereof, any commissions, divisions, discounts, gift or moiety. The municipal board of said city shall not audit any account, or issue any warrant, for the payment of any claim for services rendered or for work, labor, or materials furnished by any person during the time such person shall have held the office of mayor, alderman, or member of a municipal board of said city. A violation of any of the provisions of this section is a misdemeanor.

§ 26 **Delivery of property, books and papers to successor.** Each city officer shall upon the expiration of his term deliver to his successor in office all property, papers and effects of every description in his possession or under his control belonging to the city, and appertaining to such office. If he shall fail to do so within five days after notification and request by his successor, he shall be liable to a penalty of one hundred dollars, to be recovered by the city in a civil action together with all damages caused by his neglect or refusal, and he may also be proceeded against as provided by section 1836 of the penal law. (*As amended by L. 1910, ch. 660.*)

KINGSTON

Chapter 494, Laws of 1902

An act to amend chapter 747 of the Laws of 1896, entitled "An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city and to establish a city court therein and define its jurisdiction and powers," and to establish a system of schools in said city.

Section 1 Chapter 747 of the Laws of 1896, entitled "An act to revise and consolidate the several acts in relation to the city of Kingston, to revise the charter of said city, and to establish a city court therein and define its jurisdiction and powers," is hereby amended by the addition thereto of a new title to be known as title fifteen, to read as follows:

TITLE XV SCHOOLS¹

Section 161 All the territory included within the boundaries of the city of Kingston shall hereafter constitute a separate school district within this State and shall be designated as "the school district of the city of Kingston." It may bear such other additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred by law or other State authority upon school districts and shall be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts, except as otherwise hereinafter provided.

§ 162 The following named persons shall constitute the first board of education for the city of Kingston, each of whom shall hold office for the period of time designated herein, namely: Bernard Loughran to serve until the second Monday of January, 1903; W. Scott Gillespie, Conrad Hildebrandt, until the second Monday of January, 1904; Isaac N. Weiner, Henry R. Brigham, until the second Monday of January, 1905; Henry C. Connelly, Walter C. Dolson, until the second Monday of January, 1906; DuBois G. Atkins, Walter N. Gill, until the second Monday of January, 1907. The board of education as at present constituted is hereby continued and the present members of the board of education shall hold office until the expiration of their respective terms. Successors to the said members of the board of education now in office shall be appointed by the mayor on the first day of December next preceding the expiration of their respective terms. Such appointment to be for a term of five years to begin on the second Monday in January next following such appointment. The said trustees shall meet at the common council chamber, in said city, at eight o'clock

¹ Sections 14, 15 and 16 provide for a board of education of nine members to be appointed by the mayor.

in the evening of the first Tuesday following the day when this act takes effect, and shall organize as a board, and shall provide and appoint a place for its further meetings. Thereafter said board of education shall hold their annual meeting on the second Monday in January of each year, for the election of officers. They shall select by ballot from their number, a president and vice president; they shall appoint a suitable person, not a member of said board, clerk of the board of education. He shall also act as superintendent of schools of the city and perform the duties of supervision, and shall perform all such other duties as the board shall, from time to time, direct, and shall be allowed such compensation as the said board may determine. He shall also examine and license, under the statute and the rules and regulations established by the State Superintendent of Public Instruction, teachers employed in the public schools in said city. The said president and vice president shall hold their office for one year and until their successors shall have been duly appointed. The said clerk shall hold his office during the pleasure of the board. The said board may employ a secretary, and such clerical assistance as it shall deem proper, who shall perform such duties as the board may determine. The corporation counsel shall act as legal adviser of and counsel to said board. (*As amended by L. 1911, ch. 617.*)

§ 163 The officers of the said board shall be: a president, a vice president, a clerk and a treasurer. The city treasurer shall be the treasurer of said board of education. The said meetings of said board shall be held at least once in each month. At each of the said meetings there shall be appointed one or more visiting committees whose duty it shall be to visit every school in the city at least once, and to report upon the condition and work of the schools at the next meeting of the board. A majority of trustees in office shall constitute a quorum of the board.

§ 164 In case any vacancy shall occur in the office of trustee by reason of death, resignation, removal from the city or refusal to qualify or serve, or from any other cause, the mayor of the city of Kingston shall make an appointment to fill such vacancy, and the person so appointed shall hold office for the unexpired term of the person to supply whose place he shall be so appointed. (*As amended by L. 1911, ch. 617.*)

§ 165 The said board of education is hereby constituted the successor of the several boards of education, and of the trustees of the common school districts in the city of Kingston. All property both real and personal, now vested in and belonging to the said several boards of education, and of the trustees of the said several school districts and in the said several school districts, shall pass to and become vested in the board of education, created by this act and thereupon the terms of office of all the members of the several boards of education and the terms of office of all the trustees of the said school districts and the various district officers of the said several school districts, residing in the city of Kingston, shall cease and expire.

§ 166 A trustee duly appointed who declares that he will not accept or serve in the office of trustee, or who refuses or neglects to attend three successive stated meetings of the board without rendering a good and valid excuse therefor to the board, vacates his office by refusal to serve. (*As amended by L. 1911, ch. 617.*)

§ 167 The trustees of the several school districts in the town and city of Kingston, shall make out and deliver to the board of education hereby created at its first regular monthly meeting after the organization of said board hereinbefore mentioned, a detailed statement of their several districts showing all the school property, both personal and real, in their several school districts, and the estimated value thereof, the number of schoolhouses in their districts, the size thereof, and the materials of which the same are built, the departments into which the schools are divided and the average attendance of each school and department, the number and names of the teachers employed in each, their rank and the salaries paid to each, the amount of money in the hands of their collector and treasurer and of any other school officer, the balance on hand on the 1st day of August last, the amount of money ordered to be raised at the last annual meeting of the district, and the purpose for which it was appropriated, the receipts and expenditures of the said trustees since the 1st day of August last, the amount of money due and owing to the district, the amount of indebtedness of the district, and such other facts as they may deem necessary to make a full and complete statement of the condition of the schools in their several districts.

§ 168 Neither the mayor nor any member of the common council shall hold the office of trustee under this act.

§ 169 The several collectors and treasurers and other school officers in said town and city, having in their hands any school moneys belonging to their respective districts, shall also render to the said board of education, at its first regular monthly meeting after the organization of said board, a full and complete statement of their accounts since the preceding 31st day of July, together with their vouchers, which statements shall be verified by oath. Such accounts shall be audited by the said board of education, and on such auditing the said collectors and treasurers and other school officers, shall, upon order of the said board, pay over to the treasurer of the board of education in the city of Kingston, the sum found due from them, and upon such payment being made, the said board of education shall cancel and discharge the bonds given by the said officers respectively.

§ 170 The said consolidated district shall be deemed and is hereby declared to be a union free school district, under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated village or city and the boards of education therein, and the corporate authority of such cities and villages, are made applicable to the school district hereby consolidated and established, and to the board of education thereof, and to the corporate authorities of the city of Kingston. The said board of education shall, from time to time, as it shall deem expedient or necessary, make additions, alterations or improvements to, or in, the sites or structures belonging to the said district, purchase other sites or structures, erect new buildings, purchase apparatus and fixtures or other necessary property for the district as it shall determine.

§ 171 The said board of education shall, on or before the 1st day of October in each year, make to the mayor and common council of the city of Kingston an annual report to the 1st day of August next preceding, setting forth the number of children of each school under its charge, a statement of all the liabilities and expenses incurred, with all the disbursements made by it during the preceding year, and all other matters of interest relating to the schools. The common council shall cause said report to be published.

§ 172 The said board shall, on or before the 1st day of July in each year, determine by resolution the amount of money to be raised, which, when added to the money annually apportioned to the said schools in said city out of the funds belonging to the State, will, in its judgment, be necessary to support all the schools under its superintendence for the ensuing current year of said board beginning August 1st, and for the furtherance of any of the powers vested in it by law. The said resolution shall set forth in a detailed statement the various purposes of anticipated expenditure, and the amount necessary for each; and a copy of such resolution shall be certified by the president and clerk of said board, under the seal of said board, and delivered to the mayor and council of said city on or before said time. The common council shall proceed to consider such estimate on or before the 15th day of July, but shall not reduce the amount thereof except in case of an apparent error therein, or in case such total estimate shall exceed one per centum of the property valuation of the preceding complete assessment roll liable for taxation for such purposes. If the common council and the mayor approve such estimate, and resolution, the same shall be filed with the city clerk on or before the 20th day of July; if the mayor or the common council reduces or revises such estimate as aforesaid, the same, with the changes, objections or corrections of the mayor or common council, indorsed thereon or annexed thereto, shall be returned to the president or clerk of the board of education within two days and then said board shall proceed to reconsider said estimate and resolution, and if two-thirds of all the members then in office agree to sustain the estimate as originally made and certified, it shall stand as if it had been approved by the mayor and common council, but if two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor or common council in such objections; and the same shall be filed with the city clerk on or before the 20th day of July, with a copy of all resolutions in reference thereto certified by the president and clerk of the board. The common council shall annually levy and collect the amount so determined as aforesaid. The city clerk, under the direction of the common council, shall extend and apportion said tax on the assessment roll delivered to him as provided by section 32-a of this act, as among the owners of property taxable for such purpose on said roll in proportion to the value therein stated, and said clerk shall make a duplicate of said roll with the taxes so extended, and certify such copy to be a correct duplicate roll of school taxes; and any expense incurred in connection therewith shall be paid by the board of education; and said roll shall be delivered to the treasurer of said city with a warrant annexed under the

seal of the city, and signed by the mayor and the city clerk, on or before the 1st day of August, or as soon thereafter as practicable, commanding said treasurer to receive, levy and collect the several sums in the roll specified as assessed against the persons or property therein mentioned or described, with such percentage of penalty, interest and fees as is in this act provided. Upon the delivery to the city treasurer of said school tax roll and warrant, he shall publish the notice required by section 126 of this act, and comply with all the provisions of said section, and said treasurer, and the assessor and the collector of unpaid taxes and assessments and the city clerk, shall comply with all the provisions of sections 126 to 143, inclusive, of this act in reference to them respectively; and all of the provisions of said sections shall be applicable and prevail as to the collection of said taxes and as to all subsequent actions and proceedings in reference thereto. Whenever the aforementioned assessments are valid, and the collector is unable to collect the full amount of his warrant, the common council shall supply and cause to be transferred from the general fund to the school fund the amount uncollected; and if such uncollected taxes shall be subsequently collected the same shall be deposited to the credit of the general fund. (*As amended by L. 1915, ch. 611.*)

§ 173 The city treasurer shall keep a separate account of all school moneys received by him, whether from State authorities, local taxation, or any other source, and shall pay out the same only upon warrants signed by the president and clerk of said board of education. Such warrants shall be drawn only by the authority of the board of education, and only as the said money shall be actually needed for disbursement. The city of Kingston shall be responsible to the board of education for the faithful performance by the city treasurer of the duties of the treasurer of the said board of education. (*As amended by L. 1915, ch. 611.*)

§ 174 The said board shall make suitable and proper provision respecting security to be given by the officers under said board for the faithful performance of their respective duties. Any interest or income on the moneys in the hands of the city treasurer to the credit of said board shall go to the credit of said board, and such treasurer shall receive no compensation other than his salary as city treasurer. He shall render to said board of education in writing, and as often as it shall require, statements, reports and information concerning the moneys and funds in his hands, and the interest and income thereon.

§ 175 On or before the 15th day of September in each year the common council shall cause to be paid to the treasurer of said board of education, the balance of all moneys which shall have been levied by tax in said city in the current year for school purposes. The words "current year" as used in this section, designate the term from the 1st day of August in any year, to the 1st day of August in the next succeeding year. (*As amended by L. 1915, ch. 611.*)

§ 176 The board of education shall provide suitable textbooks for indigent pupils, and accommodations and facilities for the proper instruction of the children of such city, and shall have entire and exclusive charge and control of the public schools of the city of Kingston, subject to the powers of supervision, and direction vested in the State Superintendent of Public Instruction.

The board of education may provide suitable textbooks for any or all grades of pupils in the schools of said city. The said board of education may make all necessary by-laws for its own government, except as herein otherwise provided. The said board of education and said schools shall be subject to the laws relating to union free schools, and the general statutes of the State relating to schools. The said board of education shall be entitled to its proportion of the State moneys for the public schools of said city of Kingston, which shall be apportioned by the State Superintendent in accordance with the provisions of law, and shall be paid direct to the treasurer of the said board of education and shall be by him deposited to the credit of the said board of education. It shall have charge of the school libraries, and make all necessary and proper regulations concerning the same, and may impose fines for abuse of books; and any person incurring fines shall be liable to an action for the same by the board of education, and the amount received shall be applied to the use of the library from which the book was taken, and it may appropriate for the benefit of said libraries, out of moneys annually raised in the said city by the school tax, an amount not exceeding two hundred and fifty dollars in addition to the library money received from the State. It shall have the power to appoint librarians. (*As amended by L. 1903, ch. 562.*)

§ 177 The said board of education is hereby constituted a body corporate by the name of board of education of the city of Kingston, and may sue and be sued as such and shall have a corporate seal to be designed by the said board of education. (*As amended by L. 1903, ch. 562.*)

§ 178 The services of the board of education designated by this act shall be gratuitous.

§ 179 Whenever said board of education shall have determined by resolution an amount of money to be raised for new site or sites, building or buildings, and furniture and fixtures therefor, or for repairs or improvements to buildings or grounds, which sum shall in any one year exceed the sum of five thousand dollars, the common council, instead of raising the same by tax or refusing to raise the same, in its discretion, by resolution to be certified by the mayor and city clerk under the corporate seal of the city, and delivered to said board of education, may authorize such board of education to borrow such sum or such part thereof as the common council may determine. Such loan shall be evidenced by the bond or bonds of the city of Kingston, of such denominations as the said common council shall determine, which bonds shall be conditioned that the city of Kingston will pay the principal named therein and interest; and shall bear interest not exceeding the legal rate per annum, payable semiannually and be payable in such sums in each year as the common council shall determine, and shall be signed by the mayor and city clerk of Kingston, and sealed with the corporate seal of said city, and a record thereof shall be kept in the city clerk's office. The bonds so issued shall be delivered to said board of education and shall not be negotiable until signed by the president and clerk of said board, and sealed with its corporate seal, and the amount realized from the sale thereof

shall be paid to the city treasurer, and the par value of said bonds shall be placed by the city treasurer to the credit of the said board of education, and will be drawn only on warrants of said board of education and only for the purposes for which such loan shall have been authorized. The common council of the city of Kingston shall annually raise by tax, and as a part of the school moneys, the amount of money necessary to pay the interest annually accruing upon such bonds and the principal falling due and payable in each year. The said board of education shall certify annually by and in the resolution heretofore referred to in section 172, the amount of money necessary to be raised by tax to pay the interest on such bonds and the principal of such bonds falling due in any ensuing year.

§ 180 If at any time after the passage of the resolution provided in section 172, the said board of education shall determine that more money is needed for any of the purposes mentioned in said section 172, the said board may by resolution determine the amount so needed and certify said determination to the common council of said city, and in that case the said common council shall have the power to authorize the issue of bonds in such denomination and payable at such times as the said common council shall determine. Said bonds shall be signed by the mayor and city clerk and sealed with the corporate seal of said city, and a record thereof kept in the city clerk's office. The bonds so issued shall be delivered to said board of education and shall not be negotiable until signed by the president and clerk of said board, and sealed with its corporate seal; and the amount realized from the sale thereof shall be paid to the city treasurer, and the par value of said bonds shall be placed by the city treasurer to the credit of the said board of education, and be drawn only on warrants of said board of education and only for the purposes for which such loan shall have been authorized. The common council of the city of Kingston shall raise annually by tax, and as a part of the school moneys the amount of money necessary to pay the interest annually accruing upon such bonds and the principal falling due and payable in each year. The said board of education shall annually certify by and in the resolution named in section 172, the amount of money necessary to be raised by tax to pay the interest on such bonds and the principal of such bonds falling due in any ensuing year.

§ 181 All such parts or portions of existing school districts not wholly within the boundaries of the city of Kingston shall continue and remain as independent and separate school districts as though this act had not been passed, until they may be annexed to such adjoining districts as the Superintendent of Public Instruction of this State, or the school commissioner of the first commissioner district of Ulster county may designate. And the board of education of the city of Kingston shall, upon the passage by such districts of a resolution directing their trustees to contract with said city for the education of their pupils therein, enter into a contract with the trustee or trustees of such districts for the education in the schools of said city of all pupils residing in such territory at a rate of compensation not, however, to exceed the average cost per pupil for the main-

tenance of the school system in the city of Kingston, exclusive of any appropriations for the purchase of new sites, erections or repairs or buildings therein.

§ 2 Section 124 of chapter 747 of the Laws of 1896, as amended by chapter 159 of the Laws of 1900 is hereby further amended so as to read as follows:

§ 124 The common council may raise by tax upon the real and personal property assessable in said city at such time in each year:

8 The amounts required by law to be raised for the board of health; the examining board of plumbers; the board of education; and for election expenses. (*As amended by L. 1907, ch. 704; L. 1909, chapters 532, 567; L. 1911, ch. 617; L. 1915, ch. 611.*)

§ 14 The appointive officers of said city shall be . . . nine members of the board of education, . . .

§ 15 The . . . members of the board of education . . . shall be appointed by the mayor. . . .

§ 18 If a vacancy happens in any city office including members of the board of education, and except those named in the preceding section, it shall be filled as follows: In elective offices, except that of mayor and of alderman-at-large, and in appointive offices, except that of deputy clerk, by appointment for the residue of the term by the mayor. . . . Appointments at the expiration of a term shall be for the full term herein provided, and in other cases for the residue of the term.

§ 19 A person shall not be elected or appointed to any city office unless he be a resident elector of said city, nor to any ward, district or department office unless he be a resident elector of the ward, district or department for which he is elected or appointed, and whenever any officer of said city ceases to be a resident of said city or ward, district or department, for which he is elected or appointed his office shall thereby become vacant. . . .

§ 20 The resignation of any officer elected or appointed under this act, including members of the board of education, and except mayors, alderman-at-large, and deputy clerk, shall be presented to the mayor in writing, and shall be effective when accepted by him and filed with the city clerk. . . .

§ 21 Each officer of the city shall, before he enters upon the duties of his office, take and file his official oath, in accordance with article 13 of the constitution, and section 10 of the public officers law, and for omission so to do he shall be subject to the liability and penalties prescribed by section 1820 of the penal law, and sections 13, 15 and 30 of the public officers law. . . .

LACKAWANNA

Chapter 574, Laws of 1909

An act to incorporate the city of Lackawanna

TITLE VII

SCHOOLS

Section 150 **School districts.** The territory included within the boundaries of the city of Lackawanna shall remain in the several school districts as they exist at the time of the passage of this act. Such school districts shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred by law upon school districts, and shall be subject to all the rules and regulations, powers of inspection and superintendence prescribed by law applicable to school districts throughout the State except as otherwise provided by this act. The jurisdiction, powers and duties of the superintendent of schools and the attendance officers appointed by the board of education of the school district lying wholly within the corporate limits of the city, known as district number 6, in respect to the enforcement of the provisions of article 20 of the Education Law, relating to compulsory education, shall extend to and be exercised over the entire territory included within the boundaries of the city of Lackawanna. (*As amended by L. 1910, ch. 491.*)

§ 151 **School officers.** The officers of the several school districts and parts of districts included within or partly within the boundaries of the city of Lackawanna shall be the same as now provided by law and shall possess the same power and be subject to the same duties and liabilities, except that the city treasurer shall be the collector and treasurer for the district known as district number 6 lying wholly within the limits of the city, and he shall be the custodian of all such moneys, and also such moneys as shall be paid to him by the county treasurer or other official of the county or State, and also all moneys received from tuition, and all other receipts whatsoever. He shall keep a separate account with such district, keeping each fund separate as directed by the school authorities so to do, and shall pay out said moneys only upon warrants issued by the several school district officers as directed by law. Such district lying wholly within the city shall have no other collector or treasurer than the city treasurer. The school commissioner of the second school commissioner district of the county of Erie shall have no jurisdiction, and he shall perform no duties in respect to that portion of the city which is comprised within the limits of the district known as district number 6. (*As amended by L. 1910, ch. 491.*)

§ 152 **School moneys apportioned.** The county treasurer shall pay over to the treasurer of the city of Lackawanna for the use of the school district lying wholly within the corporate limits of the city known as district number 6, such proportion of the school, library and other public moneys apportioned to the

said district by the Superintendent of Public Instruction for teachers' wages, libraries or other purposes as shall by law be apportioned to the said district.

§ 153 **School districts.** All that territory now in the town of West Seneca and in the town of East Hamburg and in the town of Hamburg now constituting and known as school district number 5 shall not be deemed in any wise affected by this chapter. The said district shall possess the same powers and privileges, and be subject to the same liabilities as other school districts in towns, except that the superintendent of schools and the attendance officers of district number 6 shall perform their duties and have jurisdiction in respect to the enforcement of the provisions of article 20 of the Education Law, relating to compulsory education, in that portion of said district number 5, towns of West Seneca, Hamburg and East Hamburg, which lies within the boundaries of the city. (*As amended by L. 1910, ch. 491.*)

LITTLE FALLS¹

Chapter 565, Laws of 1895

ARTICLE III

Section 42 **The board of education.** The school commissioners of the city of Little Falls shall also be school commissioners of the union free school district of the city of Little Falls and shall constitute the board of education of the city of Little Falls and the board of education of the union free school district of the city of Little Falls. The Superintendent of Public Instruction shall apportion the State school moneys to the city of Little Falls, in the same manner as to cities having special school acts and for that purpose this act shall be deemed a special school act, within the meaning of the Consolidated School Law.

§ 5 **City as school district.** The city of Little Falls shall constitute a union free school district, which shall be known as "the union free school district of the city of Little Falls."

§ 11 **Elective city officers enumerated; their terms of office and compensation.** The elective officers of the city to be elected by the city at large shall be . . . three school commissioners, the term of office of each of whom shall be three years, and who shall receive no compensation for their services; . . . (*As amended by L. 1898, ch. 199; L. 1901, ch. 470.*)

§ 14 **Appointive city officers enumerated; by whom appointed.** The appointive officers of said city shall be . . . three school commissioners, . . . All appointments of school commissioners, . . . shall be so made that each of the four boards constituted by such commissioners respectively shall be non-partisan or bi-partisan; that is to say, so that when each commissioner so appointed enters upon his office, the board of which he thereby becomes a member shall be composed of an equal number of representatives of each of the two principal political parties casting the highest and next highest number of votes, respectively, at the next preceding general election. (*As amended by L. 1896, ch. 13.*)

§ 15 **Terms of office of appointive officers.** The term of office of . . . of each appointive school commissioner, three years; . . . (*As amended by L. 1901, ch. 470.*)

§ 54 **Annual report and estimates by boards and officers to the mayor.** . . . the board of education shall . . . deliver to the mayor on or before the fifteenth day of March in each year a report of all expenditures made or incurred by such board during the preceding fiscal year, showing separately and by items the amount expended from each fund which may be drawn on by such board, the balance at the end of such year standing to the credit of each such fund; the amount which in the judgment of said board will need to be expended during the current fiscal year from such fund, with the items thereof and the reasons therefor so far as practicable, and the amount and condition of all trust funds held by them . . . (*As amended by L. 1896, ch. 13.*)

¹ The provisions of the Education Law apply to this city.

LOCKPORT

Chapter 51, Laws of 1847

An act in relation to common schools in the village of Lockport

Section 1 All the territory embraced in primary school districts numbers 1, 2, 3, 4, 5, 6, and 7, as now constituted, which lies within the boundaries of the city of Lockport, and all other territory within the boundaries of said city, are hereby consolidated for the purpose and to the extent in this act specified; and shall hereafter, to such extent, form but one school district, to be called the union school district of the city of Lockport. Such parts of any of said primary districts as now bounded, as are outside the boundaries of said city, shall be annexed to adjoining districts in the town of Lockport. (*As amended by L. 1866, ch. 378.*)

§ 2 Said seven school districts shall remain and continue separate and distinct, for the purposes and to the extent in this act specified; and shall be called "primary school districts," and numbered as follows: said district number 1, shall form primary district number 1; said district number 2, shall form primary district number 2; said district number 7, shall form primary district number 3; said district number 15, shall form primary district number 4; said district number 8, shall form primary district number 5; said district number 16, shall form primary district number 6; and said district number 5, shall form primary district number 7. Said districts shall not be subject to alteration except by the acts of the Legislature, or by resolution of the board of education hereinafter created. The schools in said primary districts, shall be used as preparatory schools for the instruction of children until they arrive at a certain age, and attain a certain proficiency in learning; who shall then be transferred, upon the proper testimonials, into the union school hereinafter mentioned; the age, qualifications and testimonials, to be prescribed by the by-laws, rules and regulations of the board of education hereinafter created.

§ 3 Sullivan Caverno, residing in primary district number 1; William G. M'Master, residing in primary district number 2; Joseph T. Bellah, residing in primary district number 3; Silas H. Marks, residing in primary district number 4; Isaac C. Colton, residing in primary district number 5; John S. Wolcott, residing in primary district number 6; and Edwin L. Boardman, residing in primary district number 7, are hereby appointed trustees in behalf of such districts respectively; and Nathan Dayton, Samuel Works, Jonathan L. Woods, Lyman A. Spalding and Hiram Gardner are hereby appointed trustees in behalf of said union district. The trustees so named, and their successors, to be chosen as hereinafter provided, are hereby constituted a corporation by the name of "The board of education for the city of Lockport." (*As amended by L. 1866, ch. 378.*)

§ 4 On the first Saturday of September next there shall be elected by each primary district, one trustee, who shall be a resident of such primary district, to

fill the places of those named in the last section, in behalf of such districts respectively.* On the first Saturday of October next, there shall be elected in said union district five trustees, residents of said union district, to fill the places of those named in the last section, in behalf of said union district. Annually thereafter, on the days specified for such elections, there shall, in said districts and union district, be elected four trustees, to fill the places of those whose terms shall next thereafter expire, as hereinafter provided. The trustees named in the third section above shall hold their offices until the first Monday of January next, and until their successors shall be chosen and enter upon the discharge of their offices respectively. Every officer elected under this act shall enter upon the duties of his office on the first Monday of January next succeeding his election, and shall hold his office for the term hereinafter provided, and until his successor shall be elected and enter upon the duties of his office. All elections under this act for primary district trustees shall be held at public and convenient places in the several districts, and the board of education shall, at their first regular meeting after the 1st day of May, 1873, by resolution, designate and appoint such places, and shall publish such resolution, for three successive publications, in each of the daily newspapers published in the city of Lockport, and the places so designated shall be and continue the places for the holding of such election, until changed by said board of education, and all changes therein shall be published by said board as aforesaid. At all such elections of trustees in the several primary districts, the polls of such election shall be opened at the hour of eleven o'clock in the forenoon, and remain open for the reception of ballots until the hour of eight o'clock in the afternoon, when the polls shall be closed. At all elections of trustees in and for said union district, the board of education may designate two convenient polling places; one whereof shall be for male voters only, and the other for female voters only; and no vote shall be offered by a voter or received by any election officer, at any such election, except at the polling place provided for voters of the same sex as the person offering the vote. Until changed by the board of education, the polling place for male voters shall be at the Intermediate School building, on Chestnut street, in said city, and the polling place for female voters shall be at the Union School building, on East avenue, in said city. The board of education may change such polling places when necessary in its judgment, and all changes thereof shall be published by the board of education, as in the case of primary district polling places. The polls of the union district elections shall be opened at 10 o'clock in the forenoon, and remain open for the reception of ballots, until the hour of eight o'clock in the evening, when the polls shall be closed. The office of clerk of the union district and each of said primary districts is hereby abolished. The president of the board of education shall, at least one week before each of said election days, appoint two reputable resident freeholders of the city of Lockport, to be chairman and clerk of the poll respectively, at and for each polling place at such election. Each person so appointed or who shall be elected to either of said offices, as hereinafter provided, before he acts as such officer, shall take and subscribe the constitutional oath of office, and the same shall be filed in the office of the board

of education. It shall be the duty of the chairman and clerk so appointed to attend at the proper time, at the polling place for which they were appointed, and open the poll, and keep the same open as herein provided, and receive the ballots offered by the voters at such poll, and keep a poll list, in writing, showing the names and residences of the several voters, and all challenges of voters; and immediately upon the closing of the poll to proceed and count the votes cast, and thereupon publicly proclaim the true result of the balloting, and make their certificate in writing thereof, and to file the same, together with said poll list, and all of the ballots cast at said polling place at such election, in the office of the board of education, within forty-eight hours after the closing of the poll. Such ballots shall be carefully kept by said board for one year next after such election. The board of education shall attend at the office of the board on the second business day, next after any election of trustees, under this act, at half past seven o'clock in the evening, and proceed to canvass the votes for trustees, as the same shall have been certified by the election officers of the several polls, and shall ascertain and declare the result of the election, declaring as elected in each such district that person, otherwise qualified, who received the greatest number of votes cast in such district, as shown by such certificate. In the event of a failure to elect a trustee in any district, by reason of a tie vote or otherwise, the board of education shall, at the meeting when such canvass is made, order a special election for such district, to be held not less than ten nor more than fifteen days from the date of the preceding election in such district, and shall cause a notice of such special election to be published in each of the daily papers published in said city, on three successive days. The board of education shall have power to fill vacancies in the office of trustee for any period less than one year, otherwise a special election must be held as hereinbefore provided. There shall be entered in the records of the board a statement of the number of votes cast for each candidate at every such election, and the name or names of the trustees elected. The laws of the state to school district meetings and qualifications of voters thereat shall apply to such elections so far as not inconsistent with this act. Each chairman and clerk of the polls, for all his services in and about the election, down to and including the filing of the certificate of result and poll list, shall be paid as follows: For each primary district election, three dollars; for each union district election, five dollars; the same to be deemed contingent expenses, payable from the union district moneys. In case of the absence of the chairman or clerk of the poll from any polling place at any such election, the qualified voters present thereat shall elect one of their number to fill the vacancy until such absent officer shall appear. (*As amended by L. 1873, chapters 234, 623; L. 1890, ch. 215; L. 1897, ch. 402; L. 1900, ch. 152; L. 1910, ch. 466.*)

§ 5 Within ten days after the first election of trustees of said union district, as provided by the last section, all the trustees so elected by said primary and union districts, or a majority of them, shall meet and cause the whole number of trustees so elected, to be divided into three classes, to be severally numbered first, second and third. The term of office of the first class shall expire at the

end of one year; of the second class at the end of two years; of the third class at the end of three years, from the first Monday of January next. The term of office of said primary and union district trustees shall thereafter be three years. (*As amended by L. 1897, ch. 402.*)

§ 6 There shall annually be appointed, by said board of education, a collector and treasurer of said union district, who shall each, within ten days after receiving notice in writing of his appointment, and before entering upon the duties of his office, execute and deliver to said board of education a bond, in such penalty and with such sureties as said board may require, conditioned for the faithful discharge of the duties of his office. In case such bond shall not be given within ten days after receiving such notice, such office shall thereby become vacated, and said board of education shall thereupon make an appointment to supply such vacancy.

§ 7 Notices for annual elections and all other meetings of said districts, shall be given by said board of education, at least ten days before such election or meeting, by publishing such notice once in each of the newspapers printed in the village of Lockport; and if such notice be for an election or meeting of said union district, by posting the same on the door of the schoolhouse in each primary district; if such notice be for an election or meeting of any primary district, then by posting such notice on the door of the schoolhouse in such district.

§ 8 In case of a vacancy of any office mentioned in this act, occasioned by the death of such officer, his refusal to serve, removal out of the district for which he shall have been elected or appointed, his incapacity, or any cause other than the expiration of the term of office of persons elected, said board of education may make an appointment to fill such vacancy. The officer so appointed shall hold his office for the unexpired term of the person to supply whose place he shall be so appointed.

§ 9 Said board of education shall be a corporate body, in relation to all the powers and duties conferred upon them by virtue of the provisions of this act; a majority of the board shall form a quorum.

§ 10 Said board of education shall possess all the powers and be subject to all the duties, in respect to all of said school districts, that the trustees of common schools now possess or are subject to, and such other powers and duties as are given or imposed by this act. The clerk, collector and librarian of said union district shall possess all the powers and be subject to all the duties, in respect to said union district, that like officers of common schools now possess or are subject to, and such other powers and duties as are given or imposed by this act. (Also abolished collector, librarian and two trustees in each primary district.)

§ 11 Said board of education shall, at its first meeting, and annually thereafter, at their meeting held next after the 1st of January in each year, appoint one of their number president and another secretary. In the absence of either of such officers at any regular meeting of the board, a president or secretary may be appointed for the time being.

§ 12 The secretary shall keep a record of the proceedings of said board of education, which record, or a transcript therefrom, certified by the president and

secretary, shall be received in all the courts as presumptive evidence of the facts therein set forth.

§ 13 Each member of said board of education, and every other officer of said union district, before entering upon the duties of his office, shall take and subscribe the oath of office prescribed by the constitution of this State, and file the same with the secretary of said board.

§ 14 Said board of education shall have power, and it shall be their duty:

1 To establish and organize so many primary schools as they shall deem requisite and expedient, and to alter and discontinue the same.

2 To purchase or hire schoolhouses, rooms, lots or sites for schoolhouses, and to fence and improve them as they may think proper.

3 Upon such lots or sites, and upon any lot or site now owned by any primary district, to build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances, as they may deem advisable.

4 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages: to provide fuel for the schools, and defray their contingent expenses, and the expenses of the library and the salary of the librarian; and from and after the first Monday of September, 1896, to furnish, free of expense, to the pupils of the schools in said city, whose parents or guardians are residents of said city, such textbooks, stationery and supplies, as may be required in and about such studies as the board may from time to time determine; and to so graduate the supply of such free textbooks, as to replace therewith such textbooks, in said studies, as are now used and owned by any of such pupils, or their parents, when the same shall become worn out, or their use be discontinued. All of said free textbooks, stationery and supplies shall be and remain the property of the board of education, who shall, from time to time, make such rules as they may deem necessary for the proper preservation, care and return thereof to the board. Said board, during the school year ending on the first Monday of September, 1896, may borrow such sum of money as they may deem necessary to defray the expenses of furnishing such free textbooks, stationery and supplies, during the school term to begin on the first Monday of September, 1896, and include the sum so borrowed in the estimate to be made by them to the common council of said city in that year; and in each annual estimate hereafter made by the board, in addition to all other sums of money therein, there shall be included such sum as the board shall deem necessary for the purchase of free textbooks, stationery and supplies, for the then next ensuing year. (*As amended by L. 1896, ch. 161.*)

5 To have the custody and safekeeping of the schoolhouses, outhouses, apparatus, books, furniture and appendages, and see that the ordinances and by-laws of said board in relation thereto be observed.

6 To contract with and employ all teachers in all the schools under their charge, and at their pleasure to remove them.

7 To pay the wages of such teachers out of the public money and tuition fees to be received by them, according to the provisions of this act, so far as the same shall be sufficient, and the deficiency, if any, out of the moneys to be raised

for general purposes of education under and by virtue of the provisions of this act.

[Subdivisions 8 and 9, which relate to the old rate-bill system, are obsolete.]

10 To have in all respects the superintendence, supervision, management and control of all the schools mentioned or contemplated in and by the provisions of this act; to prescribe the course of studies therein, the books to be used, and establish an uniformity in respect to such course of studies and books; from time to time to adopt, alter, modify and repeal, as they deem expedient, rules, regulations and ordinances for the organization, government and instruction of such schools, for the reception of pupils and their transfer from one school to another, for the promotion of their good order, prosperity and public utility, for the protection, safekeeping, care and preservation of schoolhouses, lots, sites and appurtenances, and all other property connected with or appertaining to such schools.

11 To cause such rules, regulations, ordinances and by-laws to be published in such manner and form as they may deem best calculated to give general information; to cause one copy thereof, together with a copy of this act, to be kept in each of said schools; and such parts thereof as relate to such schools, respectively, to be read therein at least once during each quarter.

12 [Repealed by L. 1866, ch. 378.]

§ 15 Said board of education shall, at the commencement of each year, make an estimate by the best means in their power, and determine by resolution the amount of money which will be needed for all the purposes of education in said union school district for the current year, and for all other purposes provided for by this act, over and above the moneys to be received from the Regents of the University, from the State and for tuition, and shall transmit a copy of said resolution to the common council of the city of Lockport, and said common council shall assess and collect the amount so certified, by a tax upon all the taxable property of said city, upon the assessment roll, and at the same time and in the same manner that city taxes are now required to be assessed and collected, and the amount so estimated and collected shall be paid by the city treasurer upon orders drawn in pursuance of resolutions of said board of education, such orders to be signed by the president of said board of education, and certified by its secretary. The amount of money so to be raised in any one year shall not be less than the amount received in behalf of all said districts from the State for the year next preceding, nor more than an amount equal to seven mills on each dollar of the entire assessed valuation of the estate, real and personal, within the bounds of the said union school district, subject to taxation, unless such greater amount shall be authorized by a vote of the taxable inhabitants of the said union district; and said board is hereby authorized, in making the estimate for the year 1911, to include a sufficient amount to pay all expenses contemplated by the foregoing provisions, which shall accrue before the 1st day of January, 1912, and whenever any money shall be needed for the use of any primary or secondary district for any of the purposes contemplated by this act, said board of education shall estimate and certify the same to said common council, whose

duty it shall be to assess and collect the same by tax on the taxable property of such primary or secondary district, in the same manner as above provided for the assessment and collection of the general tax, and the moneys so collected shall be paid on orders drawn as above provided and shall be applied for the benefit of the respective districts upon which the same shall have been assessed. (*As amended by L. 1866, ch. 378; L. 1900, ch. 152; L. 1910, ch. 391.*)

§ 16 Said board of education shall have power, and it shall be their duty, forthwith to purchase a suitable lot so situated as best to convene the whole of said union district, not to exceed in cost the sum of twenty-five hundred dollars, and procure a clear title thereof, to be vested, by deed, in said board of education; to cause said lot to be graded, fenced and otherwise properly improved; to erect thereon a suitable and proper building or buildings, to be built of stone or brick, not to exceed in expense the sum of eight thousand dollars, nor to cost less than five thousand dollars; furnish the same with all proper, useful and necessary furniture, apparatus and appendages; as soon as the building is in proper condition, employ a sufficient number of well-qualified teachers, male and female, and cause a school to be commenced therein, to be called "the Lockport Union School," in which shall be taught only the higher branches of education.

The tuition fee in said union school shall not exceed two dollars each per quarter for pupils whose parents or guardians reside within the territory of said union district; for all other pupils, said tuition fee shall not be less than two dollars nor more than five dollars per quarter. No tuition fee shall thereafter be charged, nor any rate bill be made, for tuition in the primary schools, but the same shall be free schools.

§ 17 [Provided for assessment and collection of taxes by board of education. Superseded by section 15 and city charter.]

§ 18 All moneys to be raised by virtue of this act, and all moneys by law appropriated to or provided for said districts, shall be paid to the treasurer of said board, who, together with the sureties upon his official bond, shall be accountable therefor to said board of education. Said treasurer shall not pay out any of such moneys, except by resolution of said board, and upon an order drawn by the president and certified by the secretary, to be so drawn in pursuance of such resolution.

(By revised city charter the city treasurer is custodian and disburser on order of board of education of all school monies raised by local tax and received from State appropriations.)

§ 19 Said board of education shall meet for the transaction of business as often as once in each month, and may adjourn for any shorter time. Special meetings may be called by the president, or, in his absence or inability to act, by the secretary or any other member of the board, as often as necessary, by giving personal notice to each member of the board, or causing a written or printed notice to be left at his last place of residence at least twenty-four hours before the hour for such special meeting. No member of said board shall receive any pay or compensation for his services. It shall not be lawful for any member of said board, or any other officer of either of said districts, to become a con-

tractor for building or making any improvement or repairs authorized by this act, or be in any manner directly or indirectly interested either as principal, partner or surety in any such contract. All contracts made in violation of this provision shall be absolutely void, and the person so violating shall forfeit the sum of fifty dollars, to be prosecuted for and recovered by said board.

§ 20 Instead of the report now required by law to be made by trustees of school districts to the town superintendent of common schools, the trustees so to be elected for each primary district shall, within the time now required by law, make such report to said board of education, and shall therein embrace such other and further matters as may be required and prescribed by said board, or as such trustee may think the interests of such primary district or school may require. Said board of education shall annually, between the 1st of January and the 1st of March in each year, make to the town superintendent of common schools a report containing all such matters, relating as well to said union district and union school as to said primary districts and their schools, as is now or shall hereafter be required by law or the regulations of the superintendent of common schools, to be reported to said town superintendent, and such other and further matters as they may deem advisable. Such report shall be received by said town superintendent, instead of the reports now required from each of said seven districts. A copy of such report shall be filed with the secretary of said board.

§ 21 Said board of education shall, from time to time, appoint such and so many members of their board as they may deem proper, not less than three in number, a visiting committee, whose duty it shall be to visit said union school and each of said primary schools as often as once in each quarter, and make a report in writing to said board, showing the state and condition of each school, schoolhouse, apparatus and appendages, and such other matters as said board may require of them, and such suggestions for the improvement of the same as they may deem proper and advisable; such reports shall be filed and kept among the papers of said board. Such board may, in their discretion, cause such reports, or any parts of the same or the substance thereof, and any and all other matters relating to said schools, to be published in such form as they may deem advisable. They shall, at the close of each year, publish in one or more of the village newspapers a report of the moneys received and expended by them during the year, and such other matters as they deem advisable.

§ 22 Whenever, in the opinion of said board, the interests of any primary district require the sale or exchange of the school lot therein, said board may cause such sale or exchange to be made, and hold the proceeds thereof for the use and benefit of such primary district.

§ 23 The title of schoolhouses, sites, lots, furniture, books, apparatus, and appurtenances, and all other school property in this act mentioned, shall be vested in said board of education; and the same, while used for or appropriated to school purposes, shall be exempt from all taxes and assessments, and shall not be liable to be levied upon or sold by virtue of any warrant or execution.

Said board of education in their corporate capacity shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of said schools or any or either of them. (*As amended by L. 1888, ch. 103.*)

§ 24 Every officer in this act mentioned, having at the time the possession, custody, care, charge or control of any property belonging to said schools or any or either of them, or any moneys raised by the provisions of this act or provided by law for the purpose of education in said village, shall, at the expiration of his term, or whenever such officer shall resign, be removed from office, cease to act, or his office be otherwise vacated, transfer all such property and pay over all such money to the board of education.

§ 25 Every resignation of officers appointed or elected under this act shall be made to the board of education; and such resignation shall have no force or effect, nor in any degree excuse such officer from the discharge of his duties, until the same be accepted and approved by a resolution of said board.

§ 26 Any such officer may be removed from office for any judicial misconduct or neglect of official duty by resolution of said board, two-thirds of the members thereof concurring. Opportunity shall be given to every such officer to be heard in his defense before any such resolution shall be adopted.

§ 27 Every person appointed or elected to any office mentioned in this act, who, without sufficient cause, shall refuse to serve therein, shall forfeit the sum of ten dollars; and every person so appointed or elected, and not having refused to accept, who shall neglect to discharge the duties of such office, shall forfeit the sum of twenty dollars to said board of education. It shall be the duty of said board of education forthwith to prosecute for all forfeitures and penalties under this act, and when recovered to apply the same to the purposes of education in said village. All officers mentioned in this act shall be deemed public officers, within the intent and meaning of section 38 of title 6 of chapter 1, part 4 of the Revised Statutes, and, as such, liable to the penalty therein prescribed, in addition to the penalty in this section before provided.

§ 28 [Consolidated primary district libraries into a union district library. Now superseded, and the library incorporated February 9, 1893, under L. 1892, ch. 378, etc.]

§ 29 [Provided for sale of lands for taxes. Superseded by section 15 above, and city charter.]

§ 30 Said board of education may cause a school for colored children to be taught in said village, and include the expense thereof in the amount so to be raised annually by tax for contingent expenses and other purposes of education provided for in this act.

§ 31 Said board of education may organize in said union school a department for the instruction of teachers, for such parts of the year and under such rules and regulations as they may by their by-laws adopt relative thereto.

§ 32 Said board of education may at any time hereafter, whenever in their opinion the wants and interests of said schools shall require it, establish a class of so many schools, intermediate said primary and union schools, as they may

deem advisable, to be called secondary schools; and for this purpose consolidate such and so many of said primary district as they may deem advisable, prescribe the tuition fees and course of studies therein, and so arrange and regulate the system of instruction in all of said schools that the transfer of pupils shall thereafter be from the primary directly into the secondary and thence into the union school; and for this purpose, and for the organization, government and regulation of said secondary schools, said board shall have all such powers as are hereinbefore conferred upon them in respect to said primary and union schools and their districts and property.

§ 33 This act shall take effect immediately.

§ 34 Said board of education shall have power to borrow money, from time to time, whenever necessary, by reason of nonpayment of taxes, or a failure to collect a sufficient amount to pay the current expenses of the schools under its charge, as contemplated and provided for in section 15 of this act, as amended; but in no case shall they borrow a greater amount than the amount estimated and reported to the common council, as provided by this act as amended. (*As added by L. 1866, ch. 378.*)

SUPPLEMENTAL LAWS

Chapter 77, Laws of 1850

An act to amend the act entitled "An act in relation to common schools in the village of Lockport," passed March 31, 1847

Section 1 The provisions of the act entitled "An act in relation to common schools in the village of Lockport," passed March 31, 1847, are not and shall not be deemed or adjudged to be, or to have been, affected, altered, or impaired by the act entitled "An act establishing free schools throughout the State," passed March 26, 1849.

§ 2 The said board of education for the city of Lockport is hereby authorized to increase the rates of tuition fees in the union school under its charge and to graduate the same according to the branches taught, and may require fees for tuition of nonresident pupils to be paid in advance. (*As amended by L. 1866, ch. 378.*)

§ 3 Said board of education is hereby authorized to appoint a superintendent of the schools under its charge, with such powers and duties and compensation as said board shall prescribe, and such superintendent shall have power to examine and give certificates to all teachers who shall be employed in said union school district, and such certificates so given by said superintendent shall have the same force and effect as certificates given by county or assembly district superintendents have heretofore had and now have. (*As amended by L. 1866, ch. 378.*)

§ 4 From and after the 1st day of March, 1866, all secondary schools under the charge of the board of education for the city of Lockport shall be free, and no fees for tuition therein shall be charged or collected by said board. (*As amended by L. 1866, ch. 378.*)

§ 5 [Taxes by board, superseded by section 15, and city charter.]

§ 6 The acts and doings of said board of education, in accordance with the provisions of their act of incorporation, since the act entitled "An act establishing free schools throughout the State," passed March 26, 1849, took effect, are hereby ratified and confirmed.

§ 7 The public money which shall be apportioned to the districts included in the said union school district shall be paid to said board, and be applied by them to teachers' wages, in the several schools in their charge in said district, in proportion to the average number of scholars pursuing common school studies in each of said schools. The annual report of receipts and expenditures required to be published by said board, shall specify all sums received, and from whom, and all persons to whom payments were made, and the general character of the demands paid.

Upon the application of said board of education to "the Regents of The University of the State of New York," said Regents may acknowledge and declare said union school to be an academy; and it shall thereafter be an academy, subject to and to be governed by the provisions of the act authorizing said union school, and subject to such rules and regulations as said Regents may prescribe.

Chapter 95, Laws of 1858

An act to amend an act entitled "An act in relation to common schools in the village of Lockport," passed March 31, 1847

Section 1 [Taxation. Superseded by amended section 15, and city charter.]

Chapter 377, Laws of 1863

An act in addition to and in amendment of an act in relation to common schools in the village of Lockport, passed March 31, 1847

[This is a special act authorizing the purchase of land bounded south and west by the union school lands, north by Union street and east by Washburn street, for school purposes; and provides for the payment therefor by taxation, and that "When so purchased said lots shall become and forever remain a part of said union school lot."]

Chapter 822, Laws of 1867

An act in relation to the common schools in the city of Lockport

Section 1 The common school report now required to be made by the board of education for the city of Lockport shall hereafter be made to the State Superintendent of Public Instruction, instead of the school commissioner of the first assembly district of Niagara county, as the same has heretofore been made.

§ 2 The public money apportioned to the union school district of the city of Lockport shall hereafter be paid to the treasurer of the board of education for the city of Lockport, instead of the supervisor of the town of Lockport, as the same has heretofore been paid. (*Superseded by revised city charter.*)

Chapter 729, Laws of 1868

An act in relation to common schools in the city of Lockport

Section 1 The board of education for the city of Lockport, is hereby authorized to unite any two or more primary school districts within the bounds of the "union school district of Lockport," for the purpose of purchasing a site and erecting a schoolhouse for the joint use of such districts, and for the purpose of enlarging, repairing or improving the same. And such districts, when so united, shall, for the purposes above mentioned, be treated in all respects as one district.

Section 2 provides for the payment of the expense thereof by the issue of city bonds to the amount necessary therefor. (*As amended by L. 1895, ch. 483.*)

Chapter 120, Laws of 1886

An act to revise the charter of the city of Lockport

Section 58 provides for the collection of school taxes by the city treasurer, and the custody thereof by him, and the liability of the city for the moneys collected or received by him.

Section 231 provides that the common council shall levy and assess the sum certified by the board of education as necessary for school purposes for the ensuing year.

Section 268 provides "The boundaries of the union school district shall continue to include all the territory contained in the limits of the city of Lockport."

There have been numerous amendments to the charter, but none of them to date affect or alter the relations of the common council and board of education.

Chapter 103, Laws of 1888, as amended by L. 1889, ch. 387; L. 1890, ch. 15.

[These are special acts authorizing the board of education to purchase land and erect and furnish a building for the purposes of the union school district, to be used by the whole or a part of the pupils attending the union school; and providing for an issue of bonds by the city in payment therefor, not exceeding one hundred and twenty-five thousand dollars in amount.]

Chapter 372, Laws of 1897

An act to authorize the board of education of the city of Lockport to improve, enlarge and repair the old union school building

[This is a special act authorizing the board of education to enlarge, repair and improve the old union school building, and recites that the same is now used as an intermediate school; and provides for the issue of city bonds therefor not exceeding ten thousand dollars in amount.]

Special acts in 1902 and 1903 authorized bond issues to pay cost of new heating and ventilating systems in High street and Washburn street school buildings, also for building the William street school building. (*L. 1902, ch. 223; L. 1903, ch. 416; L. 1903, ch. 555.*)

Special act in 1907 authorized bond issue to rebuild High street school building, destroyed by fire. (*L. 1907, ch. 595.*)

Special act in 1905 authorized bond issue to repair Hawley street school including new heating. (*L. 1905, ch. 364.*)

MECHANICVILLE

This city was incorporated by the Laws of 1915, chapter 170. No provision is made in the city charter for the government of the schools and such schools are therefore governed by the general provisions of the Education Law.

MIDDLETOWN

Chapter 572, Laws of 1902

An act to revise and amend an act to incorporate the city of Middletown and the acts amendatory thereof

TITLE IX

OF THE BOARD OF EDUCATION

Section 160 All the territory included within the boundaries of the city of Middletown shall hereafter constitute a separate school district within this State, and shall be designated as "the school district of the city of Middletown." It may bear such other additional designation as the Superintendent of Public Instruction may by law prescribe. Such district shall be entitled to all rights, powers, privileges, public moneys and other benefits conferred by law, or other State authority, upon school districts and shall be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities, except as otherwise provided by this act. The board of education of the city of Middletown shall exercise all the powers conferred and discharge all the duties imposed by the general laws of this State applicable to boards of education in cities, except as otherwise provided for by this act.

§ 161 The present members of the board of education shall continue in office until the expiration of their respective terms. From January 1, 1912 the board shall consist of nine members, one of whom shall be the mayor, and the remaining eight electors of the city. The term of office of the eight elected members shall be four years. At the annual election in 1911 there shall be elected two members to serve four years and one to serve three years; at the annual election in 1912 two to serve four years and one to serve two years; and at each annual election thereafter two to serve for four years. The office of clerk of the board of education is hereby abolished and the duties of that office shall be performed by the clerk of the common council. (*As amended by L. 1911, ch. 699.*)

§ 162 The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances, and all other school property in said city, in this act mentioned, shall be invested in said board of education, and such property shall not be subject to state, county and city taxes. And the said board of education, in its corporate capacity, may take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the schools in said city established by authority of this act.

§ 163 All members of the board of education elected as provided by this act shall enter upon their respective offices on the 1st day of January next following their election. The annual meeting of said board shall be held on the first business day of January. A majority of said board shall constitute a quorum and be competent to transact any business of said board. At such annual meeting the said board shall elect by ballot one of their number, other than the mayor, president, and whenever he shall be absent a president pro tempore may be appointed. The members of said board shall receive no compensation for their services. The said board shall appoint a superintendent of instruction for said city, whose compensation shall be fixed by the board. The clerk of the common council shall be the clerk of the board of education. The said clerk shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. Such record, or a transcript thereof, certified by the president and clerk, shall be received in all courts as prima facie evidence of facts therein set forth. (*As amended by L. 1911, ch. 699.*)

§ 164 The common council of said city shall have the power, and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real and personal property in said city which shall be liable for the ordinary city taxes, such sum or sums of money as the board of education shall certify to the said common council to be necessary for any or all of the following purposes:

- 1 To purchase, lease, or improve sites for schoolhouses.
- 2 To build, purchase, lease, enlarge, alter, improve and repair schoolhouses and appurtenances.
- 3 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages.
- 4 To purchase fuel and pay the contingent expenses of the schools under their supervision, and the expenses of the libraries of said schools.
- 5 To pay the wages of teachers, after applying to that purpose all the public school moneys, and all the other moneys received by said board, or that shall be under their control, and which may by law be appropriated and provided for that object; provided that no moneys shall be raised for the purchasing of any site, or the erection of any schoolhouse or the enlarging of any school building already erected, unless the consent of a majority of the taxable inhabitants of said city authorized to vote, and voting at an annual or special meeting called for that purpose be first obtained.

6 The common council of said city are hereby authorized and directed to raise by loan, in anticipation of the taxes, the moneys to be levied and collected as herein provided. The taxes to be levied as aforesaid, and collected by virtue of this act, shall be collected at the same time and in the same manner as other city taxes.

7 Whenever the board of education shall deem the erection of an additional schoolhouse or schoolhouses necessary for the common schools, or necessary and additional edifices for the high school, they shall determine the kind of house or edifice, the sum required to erect the same, and the sum necessary to purchase the site, and furnish the appurtenances, specifying the probable cost of each

separately, to be the best of their judgment, and certify the same to the common council of the city of Middletown. And it shall thereupon be the duty of the common council forthwith to cause a notice to be published, and a special election or appropriation meeting to be held in the manner provided by the fifth title of this act; and in case a majority of the ballots cast at such election or appropriation meeting shall be in favor of the expenditure of the sums for any or all of the purposes so certified, it shall thereupon be the duty of the common council to provide by assessment and taxation for raising the funds necessary for that purpose, in the manner provided by the fifth title of this act. Instead of providing by assessment and taxation for forthwith raising such funds, it shall be lawful for the common council of the city of Middletown to issue bonds or other evidence of indebtedness of the city of Middletown for the purposes of the purchase of such schoolhouse lots and sites, and the building and enlargement of such schoolhouses or high school and appurtenances in such amounts as occasion may require, which bonds shall bear interest, payable half-yearly, not exceeding six per centum per annum, and shall be signed by the mayor and clerk of said city and president of the board of education, and the seal of said city be affixed thereto, and may have attached thereto coupons or warrants for the payment of interest. Said bonds shall be called "school building bonds," and shall not be sold for less than par and accrued interest. The proceeds received from the sale of said bonds shall be deposited with the treasurer of said city to the credit of said board of education, and shall be paid only by order of said board of education, drawn by the president thereof, and countersigned by the clerk thereof, for the purposes only as provided by this subdivision. It shall be the duty of the common council and they are hereby authorized to raise by assessment and taxation in the same manner as amounts are raised for the ordinary affairs, and expenses of said city, such sums as may be necessary to provide for the payment of the principal of said bonds and the interest thereon as the same becomes due and payable.

§ 165 All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to and provided for the schools of said city shall be paid to the treasurer of the city of Middletown, who, together with the sureties upon his official bond, shall be accountable therefor, in the same manner as for other moneys of said city, and who shall be liable to the like penalties for any official misconduct in relation to school as to other moneys of said city. Such moneys shall be deposited with such treasurer to the credit of said board of education, and shall be paid only by order of said board on drafts drawn by the mayor and countersigned by the city clerk, payable to the order of the person or persons entitled to receive such moneys; and said treasurer shall keep the funds received by him under this act separate and distinct from any other funds. (*As amended by L. 1911, ch. 699.*)

§ 166 The said board shall have the power and it shall be their duty:

1 To establish and organize in said city such and so many free schools as said board shall deem requisite and expedient, and to change or discontinue the same in their discretion.

2 To hire schoolhouses or rooms for school purposes.

3 To alter, improve and repair schoolhouses and appurtenances, as they may deem advisable.

4 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expenses attending the same.

5 To have the custody and safekeeping of the school buildings, outhouses, books, furniture and appendages, and to see that the ordinances in relation thereto are enforced.

6 To contract with, license and employ all necessary teachers, and at their pleasure to remove them.

7 To pay the wages of such teachers out of the moneys appropriated and provided by law for that purpose.

8 To defray the necessary contingent expenses of the board, provided the account of such expenses shall be first audited and allowed by said board of education. (*As amended by L. 1911, ch. 699.*)

9 To expend all moneys raised by virtue of this act, for building schoolhouses, purchasing sites, and other purposes for which the same may be raised, but only for the purposes for which it was raised unless there should be a surplus, and to that end that the clerk of the board of education be required to open an account for each separate fund for which money was raised and drafts drawn accordingly.

10 To have the entire supervision and management of the schools in said city, established under and by virtue of the provisions of this act; and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one school to another, for their advancement from class to class, as their degree of scholarship may warrant, and generally for the promotion of the good order and prosperity of said schools.

11 To sell and dispose of any school buildings, lots or sites, whenever in the opinion of the board it may be advisable.

12 To determine and certify to the common council of the city, on or before the 1st day of September in each year, the sums of money in their opinion necessary to be raised, under the provisions of this act, for the year commencing on the 1st day of January following, specifying in detail the purposes for which the same are required. (*As amended by L. 1911, ch. 187.*)

§ 167 The board of education shall have a regular meeting at least once in each month.

§ 168 The said board of education shall have power to allow the children of persons not resident within the city to attend any of the schools of said city under the control of said board upon such terms as said board shall by resolution prescribe.

§ 169 The said board of education shall be trustees of the public library and the school libraries in said city, and all the provisions of law relative to district school libraries shall apply to said board. They shall also be vested with

the same discretion as to the disposition of the moneys appropriated by law for the purchase of libraries as is conferred upon the inhabitants of school districts. It shall be the duty of said board, in their discretion, to provide rooms for the school libraries of said city. The board shall also appoint one or more librarians to have the care of the books, and to superintend the letting out and returning thereof, and the said board, or the general librarian, under the direction of said board, may make all purchases of books for the libraries of such schools, and exchange or cause to be repaired the damaged books belonging thereto.

§ 170 It shall be the duty of said board, in each year, to prepare and make to the common council of the city a correct report of the receipts and disbursements of moneys under the provisions of this act, during the preceding year, in which accounts shall be stated under appropriate heads:

1 The moneys raised by the common council of the said city under the provisions of this act.

2 The school moneys received by the treasurer of the city from the county treasurer.

3 The moneys received by the board under section 160 of this act.

4 All other moneys received by the treasurer subject to the order of the board.

5 The manner in which such money shall have been expended, specifying the purpose for which each amount was paid. (*As amended by L. 1907, ch. 653.*)

§ 171 The common council of said city shall have the power, and it shall be their duty, to pass such ordinances and regulations as the said board of education may report as necessary and proper, for the protection, safekeeping, care and preservation of the school buildings, lots, sites, appurtenances and appendages, libraries, and all property belonging to or connected with the schools in said city, and to impose proper penalties for the violation of the same, subject to the restrictions and limitations contained in this act to incorporate the said city, and all such penalties shall be collected in the same manner as the penalties for the violation of other city ordinances, and when collected shall be paid to the treasurer of the city, and be subject to the order of the board of education, in the same manner as other moneys raised pursuant to the provisions of this act.

§ 172 [Repealed by L. 1911, ch. 187.]

§ 173 The said board of education shall make a report to the Superintendent of Public Instruction of the State, and such report shall be made in a manner, at least annually, and at such other times as he may direct. It shall be the duty of the Superintendent of Public Instruction to apportion for the use of the board of education of the city of Middletown, such portion of the school, library and other money as it shall be entitled to, by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be entitled shall be certified to the treasurer of Orange county. The said county treasurer of Orange county shall pay over to the treasurer of the city of Middletown for the use of the board of education of said city, such portion of the school, library and other moneys apportioned to the said city of Middletown by the Superintendent of Public Instruction for teachers' wages and

libraries or other purposes, as shall by law be apportioned to said board of education or district.

§ 174 All property, real and personal, rights, powers, privileges and contracts at the time of the passage of this act, possessed, owned, occupied, exercised and enjoyed by, as well as all the duties, contracts, obligations and liabilities heretofore imposed upon the said board of education of the city of Middletown, are hereby vested and imposed upon the board of education of said city of Middletown; and all rules and regulations of the board of education of the city of Middletown, in force at the time of the passage of this act, shall be and remain valid and effectual as the rules and regulations of the board of education of said city, until repealed, modified or changed, subject, however, to the provisions of this act, and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to or by the reason of any such contract, rule or regulation, or otherwise, as well as any liabilities that may have arisen by reason thereof, shall remain and be the same under this act as they would have been had not this act been passed; and all rights and liabilities of said board of education of said city existing at the time of the passage of this act shall be in no wise affected or changed hereby.

MOUNT VERNON

Chapter 182, Laws of 1892

An act to incorporate the city of Mount Vernon

TITLE XII

OF THE SCHOOL DISTRICT AND BOARD OF EDUCATION

Section 229 All the territory included within the boundaries of the city of Mount Vernon, shall hereafter constitute a separate school district within this State, and shall be designated as "the school district of the city of Mount Vernon." Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred by law, or other state authority, upon school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence, prescribed by law, applicable to school districts in cities, except as otherwise hereinafter prescribed. (*As amended by L. 1894, ch. 10.*)

§ 229a The affairs of said school district of the city of Mount Vernon shall be managed by a board composed of two members from each ward of said city, and a president at large to be elected in the manner in this act provided, which board shall be known and designated as the "board of education of the city of Mount Vernon." Such board, and its successors, shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this State relating to school districts in cities, or relating to the board of education of such district, and not inconsistent with the provisions of this act. (*As added by L. 1894, ch. 10.*)

§ 229b The board of education of the city of Mount Vernon shall have the power, subject to the provisions of this act, to purchase, take, lease, hold or improve any real or personal estate, in trust for said school district of said city, for the support and maintenance of public schools, or for any of the purposes of education in said city. It may also take, by gift, grant, bequest or devise, and hold any real or personal estate in trust for any of the purposes of education, art, or the purchase, support or maintenance of public libraries in said city, upon such terms as may be prescribed by the donor or donors and accepted by said board, and it may execute any trust for any of the purposes aforesaid, and provide for the proper execution thereof. The title of all the schoolhouses, sites and lots, located within the boundaries of the city of Mount Vernon, and personal property appertaining to the schoolhouses situated within said city, heretofore belonging to or in the possession of school districts numbered 1, 2, 4 and 5, in the town of Eastchester, shall be and is hereby vested in the school district of the city of Mount Vernon; and said school districts, being wholly or in part within the boundaries of said city, are each dissolved; and such districts or portions thereof as are within the boundaries of said city are consolidated and constituted as hereinbefore provided, into the school district of the city of Mount

Vernon; and all such parts or portions of said districts as are not within the boundaries of said city shall continue to remain as independent and separate school districts, as though this act had not been passed, until they may be annexed to such an adjoining district in said town of Eastchester, as the school commissioner of the first school commissioner district of the county of Westchester may designate, subject to an appeal to the Superintendent of Public Instruction of this State. The trustees of school districts numbers 1, 2, 4 and 5, of the town of Eastchester, who do not reside in said city of Mount Vernon, shall continue to discharge the duties of their respective offices during the remainder of the terms thereof, or until the remaining portions of such district or districts are annexed to and form a part of some other district in said town, as hereinbefore provided; and said trustees residing outside of said city, are hereby empowered to fill any vacancy or vacancies which shall occur in any of the offices of their respective boards of education by reason of this act until the next regular school election in their respective districts, when such vacancies shall be filled by election for the balance of the unexpired term of such respective offices. In the event of any portion of any one of said districts 1, 2, 4 or 5, being annexed to any other portion of said districts lying outside of said city, then the terms of office of all the trustees of such districts so annexed shall cease and expire. (*As added by L. 1894, ch. 10.*)

§ 229c Immediately following the passage of this act, the county judge of Westchester county, by designation in writing, to be signed by him and filed in the office of the city clerk of said city of Mount Vernon, shall appoint five persons, who, upon such appointment shall constitute a special committee to take account of the real and personal property, schoolhouses, sites and lots, held in trust, for the purpose of education, by the trustees or board of education of the several school districts herein enumerated at the time of the consolidation hereby prescribed; and said committee shall ascertain, by reference to the report of the board of education of the city of Mount Vernon, as hereinafter directed to be made, how much of such real and personal property subsequently became vested in the school district of the city of Mount Vernon under the provisions of this act, and how much of such property remains outside the boundaries of the city of Mount Vernon, and in the possession of the school districts, or any of them, of the town of Eastchester. Such committee shall thereupon, subject to the approval of the Superintendent of Public Instruction of this State, adjust the values of such property equitably among the school districts in interest, directing what sum or sums of money, if any, are to be paid to or received by any of the school districts hereby affected, whether of the towns of Eastchester, or of the city of Mount Vernon, as compensation for or in satisfaction of property transferred or acquired under the provisions of this act. And the sum or sums of money so directed to be paid, if approved by the Superintendent of Public Instruction of the State, shall become a charge against the school district or districts found indebted, and the amount assessed shall be included in the next succeeding annual statement of moneys required, submitted by the trustees or

boards of education under existing laws or under the provisions of this act, and when collected shall be paid over to the treasurer of the respective school districts which may be entitled thereto. (*As added by L. 1894, ch. 10.*)

§ 229d The board of supervisors of Westchester county shall, at their first annual session after the passage of this act, proceed to inquire and determine the amount of uncollected tax for school purposes that was, at the date of the passage of this act, assessed and confirmed against the real property in the territory covered by the several school districts hereby affected. Of the amount so ascertained the said board shall determine how much should be equitably paid to the school district of the city of Mount Vernon as created by this act, and how much to such of the school districts of the town of Eastchester as were formerly parts of the school district hereby consolidated and made the school district of the city of Mount Vernon. In determining the proportions of the school tax to be paid as aforesaid, to the several school districts, the board of supervisors shall be governed by the assessed valuation of property, subject to school tax, located within such school districts as they existed before the passage of this act, and the proportion of school tax, uncollected at date of the passage of this act, to be paid to such of the school districts of the town of Eastchester as were formerly parts of the school districts hereby consolidated, shall bear proportion to the assessed valuation of real property in such school districts of the town of Eastchester, and outside the boundaries of the consolidated school district of the city of Mount Vernon. (*As added by L. 1894, ch. 10.*)

§ 229e On the second Tuesday following the date when this act shall take effect, the members of the board of education of union free school districts numbers 1, 2, 4 and 5 of the town of Eastchester, then residing within the boundaries of the city of Mount Vernon, shall assemble at the Fifth avenue school-house, situated on Fifth avenue near Second street in said city, at eight (8) p. m. of that day; and such of their number as shall so assemble shall then and there organize by the election of one of their number as president, and some suitable person, not of their number but who shall be a resident of said city, as clerk, who shall, by virtue of his office, act as secretary, and keep the minutes of said board; and thereupon and thereafter such members of said board of education and trustees so organized shall be known and designated as and shall become and be and possess all the powers and discharge all the duties of the "board of education of the city of Mount Vernon," as provided by this act; and thereupon the terms of office of all the trustees of said several school districts 1, 2, 4 and 5 residing in said city shall cease and expire.

At a special school election for the city of Mount Vernon to be held within thirty (30) days after the passage of this act, notice of which shall be given by said board of education of the city of Mount Vernon, as hereinafter provided, there shall be elected, by the persons residing within said city qualified to vote for school officers under the general school laws of this state, a president of said board of education of the city of Mount Vernon, who shall hold office for the term of four years. And also at such special election there shall be elected,

by the persons residing in the respective wards of said city who shall be qualified under the general school laws of this State to vote for school officers, two members of said board of education, to be known as trustees, one of which in each ward shall be elected for a term of two years, and the other for a term of four years; and at each regular school election thereafter to be held, as herein-after provided, there shall be elected one member of said board of education in each ward of said city, whose term of office shall be for four years, in place of the trustees from each ward whose term of office shall next thereafter expire; and at each alternate regular school election thereafter to be held, there shall be elected, by the city at large, a president of said board, whose term of office shall be four years, in place of the president whose term of office shall next thereafter expire. The said board of education shall designate at least five polling places in as many separate wards in said city, as the polling places for holding elections for school officers, and the particular ward for which each polling place shall serve. Notice of such special election, and of all subsequent elections to be held under this act, shall be given by said board of education of the city of Mount Vernon, by a notice to be signed by its president and clerk, which shall specify the time of holding such election and the location of the several polling places, and the ward to which each polling place is assigned. It shall also specify the number and office of members of said board, with their respective terms of office, to be elected thereat. Such notice shall be published in the official city newspapers at least once in each week for three successive weeks immediately preceding such election. The inspectors of election of the several election districts, wherein such polling places are situated respectively, and who are authorized to hold and conduct elections in said city at the time of holding such school elections, shall preside and hold said school elections in their respective districts. The clerk of said board of education shall, at least ten days before the date of such school elections, notify the inspectors of election districts in which polling places are situated, by notice mailed to each of them in the post office of said city, of every such election and the polling places designated by said board. The inspectors of election in each of said election districts shall preside and conduct such school elections at the places in their respective districts designated as aforesaid; and their powers and duties in respect thereto shall be determined and regulated by the provisions relating to the holding of the annual city elections for city officers, except as modified by this act. The regular election for school officers in said city, under this act, after said first election, shall be held on the first Tuesday of June, 1896, and biennially thereafter on the first Tuesday of June in each alternate year. Said first election, and all subsequent elections for school officers, shall be opened at three o'clock in the afternoon and shall be kept open, without intermission or adjournment, until nine o'clock in the evening, when the same shall be finally closed, and the inspectors of election shall forthwith, without adjournment, canvass all votes cast, declare and make duplicate certificates of the result, as required in the general city's elections, and file such duplicate certificates within

twenty-four hours thereafter, one with the clerk of the board of education of said city, and the other with the clerk of said city. At such elections there shall also be elected, when necessary, in the respective wards, such other member of the board of education as required to fill a vacancy that may have occurred during the preceding year, the member so elected being entitled only to fill the unexpired term of the member who may have resigned, refused to serve, died or been removed. In the case of members of the board elected to fill vacancies as herein described, their names upon the ballots to be voted must be accompanied by the words: "To fill the unexpired term of, resigned," or "refused to serve," "died" or "removed," as the case may be. The members of the board of education who shall be elected by the electors of the respective wards, under the provisions of this section, shall be residents of and freeholders in such wards during their respective terms. They shall receive no compensation for their services as members of such board. (*As added by L. 1894, ch. 10.*)

§ 229f On the day following the first school election, and on the days following the regular school elections to be held under this act, the board of education of said city shall convene at eight o'clock in the evening, at its usual place of meeting, and all the certificates of the votes cast at each of the polling places designated as aforesaid shall be produced and said board of education shall forthwith proceed to canvass such certificates, declare the result thereof, and shall cause a statement of the whole number of votes cast for each candidate to be entered on its minutes, shall declare those persons elected who have the greatest number of votes, and shall immediately thereafter make a certificate in writing of all those who are duly elected, to be signed by its president and clerk, and cause the same to be filed within twenty-four hours in the office of the city clerk, and it shall be the duty of the city clerk, within five days thereafter, to notify the several persons so duly elected of their election. The persons so elected shall, within fifteen days after the filing of such certificate of election as aforesaid, take the constitutional oath of office, and file the same within said fifteen days in the office of the city clerk; and every person who neglects within said last mentioned period to take and file said oath of office shall be deemed to have declined the office, and it shall be vacant. (*As added by L. 1894, ch. 10.*)

§ 229g The term of office of each school officer elected under the provisions of this act shall commence on the second Monday of August next following his election; and on the second Monday of August next following the passage of this act, the board of education of the city of Mount Vernon, as constituted for the preceding year, shall be dissolved and the terms of office of all the trustees or members of the board of education of school districts 1, 2, 4 and 5 of the town of Eastchester, then residing within the boundaries of the city of Mount Vernon, shall cease and expire, and the persons to be elected at said first school election, after duly qualifying, as hereinbefore provided, and their successors in office, shall thereafter constitute the board of education of said city. A majority of the trustees of said board of education shall constitute a quorum. In the proceedings of the board of education the president shall preside over its meetings;

and each member thereof present shall have a vote except the president, who shall have only a casting vote when the votes of the other members are tied. Every school officer shall at the time of his election and during his term of office be a resident and freeholder of the city, and every trustee removing from the ward from which he was elected, and every school officer removing from the city, shall thereby vacate his office. All school property located within the boundaries of said city, as well as all powers, privileges and contracts exercised and enjoyed by and all duties, obligations and liabilities of said trustees or boards of education of the school districts herein enumerated, except as herein provided, are hereby transferred to, vested and imposed upon said board of education of the city of Mount Vernon, constituted and organized as aforesaid; and said board shall be held to have actual possession and be seized of all such property, rights and contracts, in trust for such school district of the city of Mount Vernon, for school purposes as hereinbefore provided; and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to, or by virtue of any contract, rule or regulation, as well as any liability that may have arisen by reason thereof, except as hereinafter provided, shall remain and be in force by or against said board of education of the city of Mount Vernon and their successors, in the same manner and with like effect as might have been done by or against the trustees or boards of education of said school districts, or their or each of their successors, as if this act had not been passed. All books of record, account or instruction, and all documents and papers of whatever nature, that pertain to any of the schools within the boundaries of the city of Mount Vernon, and are in possession of the trustees or boards of education of the several school districts herein enumerated at the time of the passage of this act, shall be turned over and delivered to the board of education of the city of Mount Vernon upon its organization. (*As added by L. 1894, ch. 10.*)

§ 229*h* The trustees of school districts numbers 1, 2, 4 and 5 of the town of Eastchester shall make out and deliver to the board of education hereby created, at the first meeting, a detailed statement of their several districts, showing all the school property, both personal and real, in their several school districts, and the estimated value thereof, the number of schoolhouses in their districts, the size thereof and the materials of which the same are built, the departments into which the schools are divided, and the average attendance of each school and department, the number of volumes in each school library, the number and names of the teachers employed in each, their rank and the salaries paid to each; the balance on hand at the time of their last annual report, the amount of money ordered to be raised at the last annual meeting of the district, and the purposes for which it was appropriated; the receipts and expenditures of said trustees since said last annual meeting; the amount of money due and owing to the district, the amount of indebtedness of the district, and such other facts as they may deem necessary to make a full and complete statement of the condition of the schools in their several districts. Immediately upon the organization of the board of education of the city of Mount Vernon, as hereinbefore prescribed, said board shall proceed to the discharge of its appropriate duties. It shall pro-

vide and appoint a place for its further meetings, which shall be held as often as once in each calendar month. It shall adopt proper rules and regulations for such meetings and the dispatch of its business, and for the appointment of such committees as it may deem advisable. It shall appoint a clerk, as hereinbefore provided, who shall hold office during the pleasure of the board, and whose compensation shall be fixed by such board. The clerk shall keep an accurate record of the proceedings of said board, and shall perform such other duties as the board may prescribe. Said board shall, within fifteen days after its first organization, prepare a report of the real and personal property acquired by it under the provisions of this act, specifying the location and approximate value thereof, which report shall be transmitted to the special committee directed to be appointed in section 229c of this act. Said board of education shall also proceed to make, and as soon as practicable complete, a statement and account of all the funds in hand, collected or in process of collection, in each of the school districts consolidated under this act, with the proportion thereof that should come into the possession of the said board by virtue of this act; and all of the debts and liabilities owing, contracted or incurred by each of said districts, showing the proportion thereof that should become a charge against the school district of the city of Mount Vernon. Copies of such statement shall be transmitted to the common council of the city of Mount Vernon, the said special committee created as above provided, and the Superintendent of Public Instruction of this State. Said board shall proceed to collect such outstanding accounts as pertain to the schools or school property within the boundaries of the city of Mount Vernon, and such portion of the outstanding school tax as the board of supervisors of Westchester county shall, under the provision of this act, apportion to said school district of the city of Mount Vernon. Said board of education shall also proceed to settle and liquidate the debts and liabilities of said districts that have been or incurred upon or on account of the schools or school properties located within the boundaries of the city of Mount Vernon; and such debts and liabilities of said school districts as pertain to or have been incurred upon or on account of schools or school properties remaining outside the boundaries of the city of Mount Vernon, shall be apportioned as charges against the school districts of the town of Eastchester that may be formed from the parts or portions of school districts hereinbefore enumerated, by the school commissioner of the first school commissioner's district of Westchester county, under the provisions of section 229b. (*As added by L. 1894, ch. 10.*)

§ 229i Subject to the provisions of this act, the board of education of the city of Mount Vernon shall have power, and it shall be its duty

- 1 To establish and organize, in said city, such and so many free schools, including night schools, as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

- 2 To establish and maintain, whenever it shall be deemed expedient so to do, within the limits of the school districts hereby created, a high school, to which graduates from the free schools of said district shall be admitted for a course of instruction to be regulated by the board of education.

3 To organize, establish and maintain school saving banks, under the authority of, and in conformity with, any general law of the State in regard to such or similar institutions.

4 To purchase or hire, sell or dispose of, schoolhouses, lots or sites; to alter, improve and repair schoolhouses and appurtenances as may be deemed advisable.

5 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expense attending the same.

6 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages, and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

7 To contract with and employ a superintendent of instruction for said city, and fix his compensation; to contract with and employ all necessary teachers for the schools of the city, and at pleasure to remove them or any of them, or the superintendent of instruction, under such rules and regulations as may be established by law, or by the Department of Public Instruction of the State. And nothing in section 229g of this act shall be construed to prevent the exercise of the power hereby conferred upon the board of education.

8 To pay the salaries of superintendent and teachers out of any moneys appropriated or provided by law for that purpose.

9 To defray the necessary contingent expenses of the board and district, including the wages of clerk, janitors and other assistants and employees, and incidental expenses.

10 To expend all moneys raised by virtue of this act, or which may have been previously raised by any of the districts consolidated hereby, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such manner as may be deemed advisable, but only for the purpose for which the same was raised; and the expenditures herein directed apply only to school property located within the boundaries of the city of Mount Vernon, outside which the board of education hereby created has neither authority nor jurisdiction.

11 To take and appropriate land and other real property within said city for school purposes, when authorized so to do, upon making compensation therefor, in the same manner and under the same proceedings as prescribed and conferred upon the common council of the city of Mount Vernon, in the matter of improvements, by section 170, of title 7 of chapter 182, of the Laws of 1892.

12 To license all teachers employed in the schools thereof in the same manner and with like effect in said city as school commissioners of counties. (*As amended by L. 1895, ch. 189.*)

13 To have, to the exclusion of all boards and officers, except the Regents of the University and the Superintendent of Public Instruction of the State, the entire supervision and management of the public schools of said city, and the right, from time to time, to adopt, alter, modify or repeal, as may be deemed expedient, rules and regulations for their organization, government and instruction for the reception of pupils and their transfer from one schoolroom or schoolhouse to another, for their advancement from class to class, as their degree of scholar-

ship shall warrant, and generally for the promotion of the good order and prosperity of said schools. (*As amended by L. 1895, ch. 189.*)

14 To allow the children of persons nonresident within the city to attend any of the schools therein under the control of said board, upon such terms as said board may prescribe.

15 To establish and maintain a free public library, and to provide suitable rooms therefor, to employ and pay a librarian and assistants to have the care and supervision of the books and other publications belonging thereto, and supervise the letting out and return thereof. To exercise the same discretion as to the disposition of the moneys provided by law for the purpose of libraries, as is conferred upon the inhabitants of school districts. (*As amended by L. 1896, ch. 146.*)

16 Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

17 Except as otherwise provided by this act, to exercise all the powers conferred, and all the duties imposed, by the general laws of this State, applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated. (*As added by L. 1894, ch. 10.*)

§ 229j Said board shall, on or before the 1st day of April in each year, present to the mayor, or acting mayor, of the city of Mount Vernon, a statement of such moneys as it may deem necessary for each of the following purposes until the next annual statement, namely:

1 For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds with their appendages and appurtenances.

4 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5 For the purchase, maintenance and care of the free public library and of the school and academic libraries, but not to exceed fifteen thousand dollars in any one year.

6 For the rent of schoolhouses and rooms for school purposes, the purchase of fuel and lights, and to pay the contingent expenses of the district, including the wages of clerk, janitors, and other assistants and employees, and incidental expenses.

7 For such other purposes as required by the provisions of this act.

If the mayor or acting mayor approves such statement, he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall, within two days, return the statement, with his objections indorsed thereon or annexed thereto, to the president or clerk of the board of edu-

cation. Said board shall then proceed to reconsider such statement, and if three-fifths of all the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with the city clerk. If three-fifths of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objections, and he shall then sign it and file it with the city clerk. If the mayor or acting mayor fails to sign a statement of moneys required, as herein provided, or fails to return such statement, with his objections thereto, to the board of education, within two days after its submission, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall include the amount therein called for in the annual tax and assessment roll for that year, and the amount so certified shall be collected and paid to the city treasurer who will credit it to the general school fund of the board of education. All public moneys or public funds belonging or appropriated to the use of said district shall be paid to the treasurer of said city, who shall keep the same separate from the general funds of the city, and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the funds of said district by orders upon the treasurer, signed by its clerk and countersigned by its president. Said orders shall be numbered consecutively, and shall specify the purpose for which they are drawn and the person to whom payable. Upon the request from said board the treasurer shall certify, from time to time, the balance remaining to the credit of said school fund. Whenever any moneys are collected by or paid to the city treasurer for school purposes, it shall not be lawful for said treasurer to apply such money, or any part thereof, to any other purpose or object. (*As added by L. 1894, ch. 10, and amended by L. 1896, ch. 146; L. 1901, ch. 285; L. 1903, ch. 46; L. 1907, ch. 165; L. 1910, ch. 49; L. 1911, ch. 77.*)

§ 229*k* When the board of education shall determine by resolution that it is necessary to purchase any site or addition to any site for a schoolhouse or playground or to erect any school building or enlarge, alter or improve any school building already erected, it shall specify in such resolution the ward within which each of such sites is to be purchased and each of such buildings is to be erected, enlarged, altered or improved and the particular sum required for each separately. The said board of education shall thereupon give notice that a special election will be held in said city of Mount Vernon on such a day as the said board of education shall fix and determine. Such notice shall be signed by the president and clerk of the said board of education and shall specify the time of holding said election. It shall also specify the location of the several polling places of which there must be at least one in each ward of said city, and it shall also specify the ward in which such polling place is located. The said polling places shall be fixed and designated by a resolution of the said board of education. The said notice of election shall be published in the official city newspapers at least once in each week for two successive weeks preceding such election. The inspectors of election of the several

election districts of said city wherein said polling places are situated respectively and who are authorized to hold and conduct elections in said city at the time of holding any election provided for in this section shall preside at and hold said elections in their respective districts at the places in their respective districts designated as aforesaid. Their powers and duties in respect thereto shall be determined and regulated by the provisions relating to the holding of elections for city officers in said city of Mount Vernon except as modified by this act. The clerk of the said board of education shall at least ten days before the date of any such election notify the inspectors of election of the election districts in which said polling places are situated by notice mailed to each of them in the postoffice of said city, of every such election and the polling places therefor designated by the said board of education. The polls shall be opened at three o'clock in the afternoon and shall be kept open, without intermission or adjournment until nine o'clock in the evening, when the same shall be finally closed. The said inspectors of election shall forthwith, without adjournment canvass all the votes or ballots cast, declare the result, and make duplicate certificates of the same in the manner required in the elections for city officers in said city and file such duplicate certificates within twenty-four hours thereafter, one with the clerk of the said board of education and the other with the clerk of said city. The board of education shall provide and deliver to the said inspectors of election at each of the said polling places before the opening of the polls sufficient printed ballots for the use of the electors, which shall be indorsed "school tax," and shall, as the same are voted be deposited in a ballot box provided therefor and marked "school tax." Upon the inside of such ballot shall be printed the several items or objects to be voted for, with the words "for" and "against" at the beginning of each item. Each elector shall indicate his vote as to each of said items by erasing or drawing a mark through the one or the other of said words "for" or "against." The inspectors shall canvass the said votes, and make a statement thereof in respect to each item voted upon, and immediately file the same with the clerk of the board of education. Within three days following such election the board of education shall convene at its usual place of meeting, at half past seven o'clock in the evening, and the statement from each polling place shall be produced, and the board shall forthwith declare and make a certificate in writing of the result. In case a majority of the votes cast be in favor of any said taxes, the board of education shall have authority to borrow, upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. In case the sum or sums so authorized to be raised shall exceed the sum of five thousand dollars, the board of education shall issue bonds of the city of Mount Vernon or other evidence of indebtedness in such form as it may prescribe for the amount of such sum or sums at a rate of interest not exceeding five per centum per annum, and payable at such times as the said board of education shall fix or determine. The said bonds shall be exempt

from taxation. Said bonds or any part thereof may be sold by the said board of education in such manner as it may deem best, but at not less than the par value thereof. The board of education shall, on or before the 1st day of May in each year, file with the city clerk a statement of the amount necessary to be raised to pay the interest and principal that will become due during the ensuing year upon the bonds or obligations so issued by said board, and the common council shall include the same in the annual city tax and assessment roll for that year. Such amount shall be collected and paid to the city treasurer, and by him credited to the "loan fund." This act shall not be construed to affect any obligation made prior to the passage of this act. The board of education, after completing the work or other objects for which the said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this act. (*As added by L. 1894, ch. 10, and amended L. 1896, ch. 146; L. 1901, ch. 473; L. 1908, ch. 51.*)

§ 229^l It shall be the duty of the board of education, at least thirty days before the annual city election for city officers in each year, to make to the mayor and common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year of the said board of education; also a full statement of the bonded or other indebtedness of the district, and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city which they are required by law to have printed and circulated. Said board of education shall also make report to the Superintendent of Public Instruction of the State, and such reports shall be made in the manner and at such times as he may direct. (*As added by L. 1894, ch. 10.*)

§ 229^m It shall be the duty of the Superintendent of Public Instruction of this State to apportion for the use of the said board of education of the city of Mount Vernon such portions of the school, library and other public money as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Westchester county. The said county treasurer of Westchester county shall pay over to the treasurer of the city of Mount Vernon, for the use of the board of education of said city, such proportion of the school, library and other public money as may be apportioned by law or by the Superintendent of Public Instruction of the State to the board of education of the city of Mount Vernon, for teachers' wages, library and other school purposes. (*As added by L. 1894, ch. 10.*)

§ 229ⁿ The common council of the city of Mount Vernon shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the board of education of said city shall report necessary for the protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper. (*As added by L. 1894, ch. 10.*)

§ 2290 Charges of misconduct or violation or neglect of duty on the part of any member of the board of education, may be presented to said board, by any member thereof, or by any elector of Mount Vernon, and such charges shall be duly examined by said board, at a regular or special meeting, of which the accused member shall have at least five days' notice, but at which meeting said accused member shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, said board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the proceedings of the meeting, shall be transmitted by the clerk of the board of education to the Superintendent of Public Instruction of the State, and, upon his approval of the findings of the board, the accused member shall be removed and his place deemed vacant. All vacancies in the board of education, occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled by appointment by said board until the next regular school election, when the residue of the term, if any, shall be filled by election, as hereinbefore prescribed. (*As added by L. 1894, ch. 10.*)

§ 2291 The superintendent of instruction of the city of Mount Vernon shall confer with and act under the direction of the board of education of said city in performing the duties of his office. He shall, subject to the direction of said board, have general control and supervision of the public schools, and the teachers thereof, in said city, and shall, on or before the 15th day of April each year, report in writing to the board of education as follows:

- 1 The whole number of schools within the jurisdiction of the board of education, and their sanitary condition.

- 2 The repairs or alterations, if any, that are necessary for such schools.

- 3 The condition of the school furniture, apparatus and books, in the several schools, and the repairs and additions thereto that may be necessary.

- 4 The number of teachers employed in the several schools, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

- 5 The number of pupils registered at each school, and the average daily attendance.

- 6 Such changes in the curriculum of any or all of the schools as he may deem advisable.

- 7 As to the condition and management of the high school, if one shall have been established.

- 8 Such other information in relation to the city schools as may be of interest to the people of Mount Vernon. (*As added by L. 1804, ch. 10.*)

§ 2292 The said consolidated district shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the boards of education therein, and the corporate authority of such cities, are made applicable to the school districts hereby consolidated and established, and to the board of education thereof, and to the corporate authorities of the city of Mount Vernon. (*As added by L. 1894, ch. 10.*)

§ 229^r It shall be the duty of the supervisors and town clerk of the town of Eastchester forthwith after the passage of this act to sell, assign and transfer to the city of Mount Vernon, for a nominal consideration, all tax leases and certificates of sale now held by said town for nonpayment of any school taxes, affecting any lot, piece or parcel of land within the corporate limits of the said city upon payment by said city to said supervisor for the benefit of said town of the actual expenses incurred by said town in publishing notice of such sales; and for making, executing and delivering to the said city the assignment of such tax leases and certificates the town clerk shall be entitled to demand and receive from the said city, as compensation for his services in lieu of all fees, the sum of fifty (\$50) dollars. In making the property adjustment with the several school districts of the said town of Eastchester, portions of whose limits are without the said city, as hereinbefore provided for, the said city shall be deemed indebted to each of said districts for the amount of all school taxes and interest thereon, included in any such tax leases and certificates of sale for nonpayment of taxes, affecting any lot, piece or parcel of land within the corporate limits of the said city and of such districts, which several taxes shall not have been previously paid by the said town or its supervisors to said district; and such indebtedness on the part of such city to such district shall in the adjustment aforesaid be deemed and taken to be an asset of said district. (*As added by L. 1894, ch. 10.*)

§ 229^s The common council of said city of Mount Vernon may from time to time issue bonds of the city of Mount Vernon, to be known as "School tax relief bonds," signed and sealed in the same manner as other bonds of the said city and to bear such interest not exceeding the legal rate as the common council shall prescribe, provided, however, that no such bonds shall be issued in excess of the amount of taxes remaining unpaid for the collection of which warrants have been issued. Such bonds shall be in such denominations and mature at such times, not exceeding three years from their date, as the common council may prescribe. The common council shall convert such bonds into money at not less than their par value or obtain temporary loans upon the same. When the amount of such bonds outstanding shall be equal to the amount of school taxes remaining unpaid, the common council shall cause all moneys received for unpaid taxes and interest on the same to be held exclusively for the payment of such bonds and the interest thereon. (*As added by L. 1895, ch. 189.*)

§ 229^t The Mount Vernon Public School Teachers Retirement Fund Association is hereby established. The following shall be members: (1) any superintendent, supervisor, principal, teacher, registrar, janitor, or other employee of the board of education of the city of Mount Vernon, who shall have voluntarily joined said association within one month after the original passage of this act; (2) any of the above classes of employees of the board of education of the city of Mount Vernon, who at a subsequent period, but before the adoption of the amendment herein incorporated, voluntarily joined said association upon the payment of back dues; (3) any of the above classes, in the employment of said board of education previous to the adoption of this amendment, who shall vol-

untarily join said association within one month after this act takes effect, being excused from the payment of back dues; (4) any superintendent, supervisor, principal, teacher, registrar, janitor, or other employee, who shall for the first time enter into a contract with said board of education after this act takes effect; and for such person's membership in this association shall be a stated condition in their several contracts. All members of said teachers retirement fund association shall be considered members of said association during their term of employment in the public schools of the city of Mount Vernon. The board of education shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by this act. The public school teachers retirement fund shall consist of the following moneys with the interest or income therefrom.

a All donations, legacies and gifts which shall be made to the said fund.

b One per centum per annum of the respective salaries paid to the employees of the board of education of the city of Mount Vernon, who are or shall hereafter become, under any of the above provisions, members of this association.

c A sum of money annually hereafter, equal to but not greater than five per centum of all excise moneys (after deducting rebates or returns), received by the city of Mount Vernon under or by virtue of any of the provisions of the liquor tax law of the State of New York; which sum shall be paid into said retirement fund and duly credited thereto, by the proper officials of said city, having the legal custody thereof.

d All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal, teacher, registrar, janitor, or other employee employed in the public schools of said city. Such forfeitures and deductions shall be paid into said retirement fund and duly credited thereto by the proper officials of said city having the legal custody thereof. The unpaid salary of a teacher who is on leave of absence, formally granted by the board of education, shall not be regarded as a forfeiture or deduction, and shall not be paid into the retirement fund. The comptroller of said city shall be the custodian of said fund and the city treasurer shall be the treasurer thereof, and all orders made payable from said fund except for moneys drawn for investment by the comptroller shall be made upon the vote of said board of trustees. All orders except for moneys drawn for investment by the comptroller are to be signed by its president and countersigned by the city comptroller and city treasurer.

The comptroller of said city shall invest for the benefit of the retirement fund all moneys not necessary for the payment of annuities. Such investment shall be made only in securities in which the savings banks of the State of New York are authorized by law to invest. All orders made payable from said fund for investment by the comptroller shall be signed by the comptroller and countersigned by the city treasurer. He shall report to the board annually in the month of January the condition and disposition of the fund, and the items of receipts and disbursements during the year ending on the 31st day of the December preceding. The board of education in making the payrolls for October and March

each year for the superintendent, supervisors, principals, teachers, registrars, janitors and other employees hereinbefore mentioned, shall deduct from the salary payable for each of such months to each of said persons who shall be members of said public school teachers retirement fund association the sum of one-half of one per centum of his or her annual salary. The board of education shall thereupon issue a certificate to the treasurer stating the total sum of deductions and also the total amount of deductions from the salaries of any persons who are members of said association, for absence from duty during the preceding six months. Such amount shall be paid into the retirement fund and duly credited thereto by the city comptroller. (*As added by L. 1909, ch. 92, and amended by L. 1913, ch. 44.*)

§ 229^u The board of education shall have power to retire from service any superintendent, supervisor, principal, teacher, registrar, janitor or other employee, who shall have served in such capacity or capacities for an aggregate period of twenty-five years for a female and thirty years for a male, and no person so retired shall become an annuitant under this act unless fifteen years of such service shall have been rendered in the public schools of Mount Vernon, and unless he or she shall have come under the provisions of this act as hereinbefore provided. Annuities paid in pursuance of this act shall be one-half of the salary of the annuitant at the time of retirement from service, except that no annuity shall exceed eight hundred dollars annually, but if the moneys in the fund and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the trustees shall then determine the pro rata amount which in their judgment each annuitant shall receive in one year, and such an amount shall be deemed full payment of the annuity for that year. If, however, any person, a member of this association, after twenty years' service, ten years of which service shall have been in the public schools of Mount Vernon, shall become mentally or physically incapacitated for duty, he or she may be retired by the board of education upon an annuity of as many twenty-fifths, if a woman, and as many thirtieths, if a man, of the full annuity as said person has taught, or otherwise served, in years. If at any time any member of this association shall be refused reemployment by the board of education, or shall be discharged before he or she would become an annuitant under the provisions of this act, then such a person shall be entitled to receive from the treasurer, without interest, a sum equal to the total deductions from his or her salary in pursuance of this act other than the forfeitures and deductions specified in subdivision (d) of section 229^t of this article.

No member of this association shall be entitled to an annuity who has not contributed to the retirement fund an amount equal to at least thirty per centum of his annuity. But a person, who is otherwise entitled to retirement and an annuity under this article, may become an annuitant and entitled to an annuity by making a cash payment to the retirement fund of an amount which, when added to his previous contributions to such fund, will equal thirty per centum of his annuity. In case a member of this association, who shall retire or be re-

tired, is unable to pay in advance the sum required to make up the said thirty per centum of the annuity, the payment of such annuity may be withheld until the portion of the annuity withheld shall equal the sum required to make up said thirty per centum of the annuity. (*As added by L. 1909, ch. 92, and amended by L. 1913, ch. 44.*)

Chapter 489, Laws of 1901

An act authorizing and empowering the board of education of the city of Mount Vernon to acquire lands for a library site and to issue bonds for the purpose of purchasing or otherwise acquiring the same.

Section 1 The board of education of the city of Mount Vernon are hereby authorized and empowered to borrow upon the faith and credit of said city of Mount Vernon such sum or sums, not exceeding in the aggregate twenty thousand dollars, as may, in their judgment, be necessary for the purpose of purchasing lands in said city for a site for a library.

§ 2 The said bonds shall be due and payable thirty years from the date thereof, and shall bear interest at such a rate of interest, not exceeding four per centum per annum, as the said board of education shall, by a majority vote of all the members thereof determine. The said bonds or any part thereof may be sold by the said board of education in such manner as it may deem best but at not less than the par value thereof with accrued interest, if any. The said bonds shall be exempt from taxation.

§ 3 The said board of education shall, on or before the 1st day of May in each year, file with the city clerk of said city of Mount Vernon a statement of the amount necessary to be raised to pay the interest and principal which will become due during the ensuing year, upon the bonds or obligations so issued by said board of education. The common council of said city of Mount Vernon shall include the said amount in the annual city taxes, and shall levy and collect the same in each year in the same manner as the city taxes are now by law to be levied and collected. The said amount shall be paid to the city treasurer of said city of Mount Vernon, and shall be used to pay the principal and interest on said bonds as the same shall fall due.

§ 4 To secure the payment of the said loans the said board of education are hereby authorized to make, execute and deliver bonds of said city of Mount Vernon which shall be signed by the president and the clerk of said board of education and shall be of such amounts as the said board of education shall determine. The said bonds shall be denominated "Library site bonds of the city of Mount Vernon" and shall be numbered consecutively as issued, and a record of said bonds, showing the number, amount, rate of interest, and the time when payable, shall be kept by the said clerk of the board of education.

§ 5 The credit of the said city of Mount Vernon is hereby pledged for the payment of such bonds as may be issued by authority of this act.

§ 6 The said board of education are hereby authorized and empowered with the proceeds of the sale of said bonds or any part thereof, to purchase lands for a library site, and improve the same.

§ 7 The said board of education are hereby authorized and empowered to acquire by purchase any lands, rights, or easements necessary or requisite for the purpose of carrying out the provisions or purposes of this act at such price or prices as they will deem fair and reasonable; and, if unable to do so, they shall acquire such lands, rights or easements by condemnation, under the condemnation law.

§ 8 This act shall take effect immediately.

NEW ROCHELLE

Chapter 559, Laws of 1910

An act to provide a charter for the city of New Rochelle

ARTICLE XXIV

DEPARTMENT OF EDUCATION

Section 351 City permanent school district

352 Board of trustees

353 Annual meeting and officers

354 General powers and duties of the president

355 General powers and duties of the clerk

356 Power of the board to establish, maintain and control schools and playgrounds

357 Power to purchase land and erect buildings

358 Condemnation of real estate for school purposes

359 Power to appoint and remove

360 Issue of school bonds

361 Nonresident pupils

362 Removal of trustees

363 Superintendent of schools

364 District a union free school district

365 Religious sects¹ and dogmatic books excluded; Bible retained

Section 351 **City permanent school district.** The city shall form a permanent school district which shall not be subject to alteration by the district commissioner of common schools for the district in which it is situated.

§ 352 **Board of trustees.** The district shall be under the direction of the board of trustees, to be styled the board of education of the city of New Rochelle, which shall be a body corporate in relation to all the powers and duties conferred upon it by this act. The board shall consist of nine trustees, five of whom shall constitute a quorum for the transaction of business. It shall adopt rules to govern its proceedings. The members of the board of education who are in office when this act takes effect shall be the members of the board of education until the expiration of their terms of office and until their successors are appointed and qualify. The term of office of the trustees shall be three years and shall begin on the second Tuesday of September in the year in which they are appointed. A trustee appointed to fill a vacancy shall serve for the unexpired term. The trustees shall serve without compensation.

§ 353 **Annual meeting and officers.** The board shall hold an annual meeting on the second Tuesday of September in each year, and at such meeting or at an adjourned or the next regular meeting the members thereof shall choose one of their number as president and some person, not of their number, who shall be a resident of the city, as clerk. The clerk shall hold office at the pleasure of the board. The compensation of the clerk shall be fixed by the board.

¹ So in the original.

§ 354 **General powers and duties of the president.** The president shall preside over the meetings of the board and shall perform such executive acts and duties as may be required by the board or by law.

§ 355 **General powers and duties of the clerk.** The clerk shall be the secretary of the board and keep its minutes and shall perform such other duties as may be required by law or be prescribed by the board.

§ 356 **Powers of the board to establish, maintain and control schools and playgrounds.** Subject to the provisions of this act, the board of education shall have power to establish, organize, equip, maintain and control free schools, including night schools and such other schools and courses of instruction as may, in its judgment, be required and to change or discontinue the same at its discretion; to establish, equip, maintain and control playgrounds and athletic fields; and in general to provide for the educational interests of the city.

§ 357 **Power to purchase land and erect buildings.** For the purposes stated in the preceding section, the board of education shall have power to purchase land in the name of the city and to erect buildings thereon.

§ 358 **Condemnation of real estate for school purposes.** Whenever the board of education reports to the council that it is unable to purchase real estate rights or easements deemed by it to be necessary for school purposes, the council may proceed to acquire such land by condemnation proceedings.

§ 359 **Power to appoint and remove.** Subject to the provisions of the Education Law, the board of education shall have power to appoint, employ and remove a superintendent of schools, teachers and other employees, and to fix and increase or decrease their compensation. The superintendent of schools shall not be removed except by a majority vote of all the members of the board. The board may also appoint and at pleasure remove a medical inspector of schools who shall be a licensed and registered physician and surgeon of at least five years' active practice.

§ 360 **Issue of school bonds.** Whenever the amount required for the purchase of land, the erection of a building, or the enlargement of an existing building exceeds the sum of ten thousand dollars, the board of education shall certify to the council by resolution the amount that is necessary for such purposes, and bonds for such amount may then be issued and sold in accordance with the provisions for the issuance and sale of bonds contained in this act; but the council must approve or disapprove the resolution of the board of education as a whole.

§ 361 **Nonresident pupils.** The board may allow children who are not residents of the city to attend any of the public schools therein upon such terms as it may prescribe, and may also authorize resident children to attend public schools of adjacent districts and may pay for their tuition therein.

§ 362 **Removal of trustees.** Charges of misconduct or of neglect of duty on the part of any member of the board of education may be presented to that board by any resident of the city. Such charges shall be served upon the accused member. The board at a meeting of which the accused member shall have at least five days' notice shall hear evidence upon the charges. If two-thirds of all the members of the board vote to sustain the charges, all the papers and docu-

ments in the case, with a transcript of the proceedings, shall be transmitted to the mayor, who shall thereupon have power to remove the accused member.

§ 363 **Superintendent of schools.** The duties of the superintendent of schools shall be prescribed by the board of education. Subject to the direction of the board and to the rules adopted by it, he shall have general control and supervision of the public schools and of the teachers and other employees thereof. On or before the 1st day of July of each year, or whenever required by the board, he shall report to it in writing the general condition and needs of the schools of the city and such details thereof as it may require.

§ 364 **District a union free school district.** The said district shall be deemed and is hereby declared to be a union free school district under the laws of the State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and to the board of education therein, and to the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of New Rochelle.

§ 365 **Religious tenets and dogmatic books excluded; Bible retained.** No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines, tenets, or usage of any particular church or religious sect shall be taught, inculcated or practised, or in which any book which contains compositions favorable or prejudicial to the doctrines or tenets of any particular church or religious sect shall be used. But nothing herein contained shall authorize the board of education to exclude the Holy Scriptures without note or comment, or any version thereof, or any selection therefrom, from any of the schools provided for by this chapter; but the board of education shall not have the power to decide what version, if any, of the Holy Scriptures, without note or comment, shall be used in any of the schools; provided that nothing herein contained shall be so construed as to violate the rights of conscience as secured by the constitution of this State and of the United States.

ARTICLE XXV

PUBLIC LIBRARY

Section 371 Trustees

372 Annual estimate

373 Annual report

Section 371 **Trustees.** In accordance with the provisions of its charter, the trustees of the New Rochelle Public Library shall be elected by the board of education of school district number 1, New Rochelle, now the board of education of the city of New Rochelle. They shall be five in number and shall serve five years and until their successors are elected and qualify. Their term of office shall begin on the second Tuesday in September in the year in which they are elected. A trustee elected to fill a vacancy shall serve for the unexpired term. The trustees shall serve without compensation. The trustees of the New Rochelle

Public Library who are in office when this act takes effect shall be its trustees until the expiration of their terms of office and until their successors are elected and qualified.

§ 372 **Annual estimate.** On or before the 1st day of December in each year the trustees of the New Rochelle Public Library shall submit to the mayor, as president of the board of estimate and apportionment, an estimate in writing of the amount required for the maintenance of the library during the next fiscal year of the city, itemized in the manner which the board of estimate and apportionment may prescribe. When the estimate is approved or modified by the board of estimate and apportionment, it shall be included by that board in the annual estimate of the expenditures of the city and shall be adopted without change by the council as a part of the annual city budget.

§ 373 **Annual report.** On or before the 10th day of January in each year the trustees of the library shall submit to the mayor a report of the operations of the library during the past fiscal year of the city.

§ 62 **Estimates of departments.** On or before the 15th day of December in each year the council, all heads of departments, boards, the judge of the city court, the trustees of the New Rochelle public library, and officers empowered by law to expend money shall furnish to the mayor as presiding officer of the board itemized estimates in writing of the amount required for the next fiscal year in their respective departments, boards, court or offices. Such estimates shall set forth in detail the amounts required for salaries, expenses and all other necessary items according to rules prescribed by the board. Thereafter during the month of January following, and on or before the 15th day of said month, the mayor shall lay the estimates before the board of estimate and apportionment and the same shall be entered upon its minutes. The board of estimate and apportionment may make such changes in the estimates as it shall deem necessary. If it reduces the estimate submitted by the board of education, the estimate shall forthwith be returned to the board of education, which shall have power within ten days by a vote of two-thirds of all its members to readopt the estimate, and it shall thereupon be included in the annual estimate.

§ 63 **Estimates to be filed.** A copy of the estimates shall be filed with the city clerk at the same time that they are filed with the mayor. The board of estimate and apportionment shall file with the city clerk an itemized estimate for any expenditure not included in the foregoing section for which an appropriation is to be made.

Section 12 creates a board of education to consist of nine members and to be appointed by the mayor. Section 13 provides that all persons appointed to office by the mayor shall be electors except that women may be appointed on the board of education. Section 17 provides for the constitutional oath of offices.

NEW YORK

Chapter 378, Laws of 1897, as reenacted by chapter 466, Laws of 1901

GREATER NEW YORK CHARTER

CHAPTER XVIII

DEPARTMENT OF EDUCATION

Title 1 The public schools and their management

Title 2 The College of the City of New York

Title 3 The normal college

Title 4 General provisions

TITLE I

THE PUBLIC SCHOOLS AND THEIR MANAGEMENT

Board of education; property under its care and control; in what name suits brought

Section 1055 The title to all property, real and personal, now or that may hereafter be acquired for school or educational purposes, except the State Normal School at Jamaica,¹ and also the title to all property, real and personal, purchased for school or educational purposes with any school moneys, whether derived from the issue of bonds or raised by taxation in the city of New York, shall be vested in the city of New York, as constituted by this act, but shall be under the care and control of the board of education as provided in this act, for the purposes of public education, recreation and other public uses. Suits in relation to such property shall be brought in the name of the said board of education. The said city of New York shall have power to take and hold any property, real or personal, devised or bequeathed or transmitted to it for the purposes of education in said city; but such property shall be under the care and control of the board of education as provided by this act, for the purposes of public education, recreation and other public uses in said city.

The board of education is the proper party defendant in a suit relating to school funds. The city as trustee of the school funds has title to the money, but it is under the care, control and administration of the board of education and all suits in relation to it must be brought in the name of the board. The mere fact that the charter makes the board of education a member of one of the administrative departments does not indicate that the State functions which were formerly directly imposed upon the board as a separate public corporation are devolved upon the city and that the board of education is relegated to a position occupied by the other city departments; the charter provision does not make any change in the corporate powers, duties or liabilities of the board and, therefore, does not affect its legal capacity to sue and be sued. Hence a suit to recover teachers' salaries must be brought against the board of education and not against the city. *Gunnison v. Board of Education of the City of New York*, 196 N. Y. 11, aff'g 80 App. Div. 480; 81 N. Y. Supp. 181.

Liability of city for malfeasance or misfeasance of board of education. While the

¹ The Jamaica State Normal School was transferred to the city of New York by L. 1905, ch. 524. See p. 261, post.

title to a public school building of the city of New York is vested in the city, its board of education, created by statute, is made solely responsible for the care and control thereof; and therefore where a pupil is injured by a defect in the floor of such a building, she can not collect damages of the city, as it is not liable, on the ground either of negligence or of nuisance, for the malfeasance or misfeasance of the officials or subordinates of its board of education. *Brown v. City of New York*, 32 Misc. 571; 66 N. Y. Supp. 382.

So an action to recover for the death of a person, caused by the fall of a defective flagpole erected on a school building, should be brought against the board of education and not against the city itself. *McCarton v. City of New York*, 149 App. Div. 516, 133 N. Y. Supp. 939.

Liability of board of education for injuries caused by lack of repair of schoolhouse. The board of education is not given the power to keep the school buildings in repair so the board is not liable under the doctrine of *respondent superior* for the negligence of those having in charge the care of such buildings. However, as the board is vested with the management and control of the school buildings, including the sole power to close them, it is responsible for injuries to a pupil resulting from its failure to close a school where it had notice of a defective ceiling which fell and injured such pupil. *Wahrman v. Board of Education*, 187 N. Y. 331, aff'g 111 App. Div. 345; 97 N. Y. Supp. 1066.

The doctrine of *respondent superior* applies to municipal or governmental corporations in respect to the duties imposed on them. It therefore applies in an action against the board of education of the city of New York to recover for injuries received by one employed as a cleaner in a public school. *Higbie v. Board of Education*, 122 App. Div. 483; 107 N. Y. Supp. 168, distinguishing *Wahrman v. Board of Education*, 187 N. Y. 331.

Liability of city for negligence. Although there can be no doubt that the board of education is a corporation independent of the municipal corporation, the city of New York, yet this fact does not relieve the city of the duty it owes to pedestrians to keep the sidewalks free from ice and snow, and the city itself is liable for injuries resulting from the neglect of that duty. *Pymm v. City of New York*, 111 App. Div. 330; 97 N. Y. Supp. 1108.

Notice to the principal, janitor and assistant janitor of a public school, and to an inspector of the board of education, of accumulation of snow on the sidewalk in front of a public school, is not notice to the city. The city of New York has a right to assume that the board of education, which is a separate corporation, will perform its duty and keep such sidewalk free from snow and ice. No greater duty devolves on the city with respect to the removal of snow and ice from walks in front of public schools than with respect to snow and ice which accumulates in front of private premises. *Owen v. City of New York*, 141 App. Div. 217; 126 N. Y. Supp. 38.

Costs in an action against the board may be recovered if plaintiff's claim before suit was duly presented to the auditing department of the board. The comptroller is the only fiscal office of the board. *Eagan v. Board of Education*, 115 N. Y. Supp. 167.

A bequest for the supply of a library for the College of the City of New York may be accepted by the board of education. *Betts v. Betts*, 4 Abb. N. C. 317.

School age of children

§ 1056 The schools of the said city under the management and control of the board of education shall be free to all persons over 4 and under 21 years of age residing in said city, but under such regulations not in conflict with the general school law of the State, as the board of education shall prescribe, provided, however, that no child under 6 years of age shall be received in said schools except in kindergarten classes.

Separate schools for colored children. A provision of law which provides that a school board may provide separate schools for colored children and exclude them from

other schools, provided that the schools for colored children make the same provisions for their education as are made in other schools, is not qualified by the constitutional privilege of education in a system of free common schools wherein all the children of the State may be educated nor by the provisions of the penal law making it a misdemeanor for teachers and officers of the common schools to exclude any citizen from any privilege or accommodation therein. *People ex rel. Cisco v. School Board*, 161 N. Y. 598, aff'g 44 App. Div. 469; 61 N. Y. Supp. 330.

Nor does provision for such schools violate any privilege guaranteed by the federal bill of rights. *Dallas v. Fosdick*, 40 How. Pr. 249.

The establishment of such separate schools for the exclusive use of the different races is not an abridgement of the "privileges or immunities" preserved by the fourteenth amendment of the federal Constitution, nor is it a denial of the equal protection of the laws. The privilege of receiving an education at the expense of the State is created and conferred only by State laws, and may lawfully be denied to any class or race by the State at its will and discretion. *People ex rel. King v. Gallagher*, 93 N. Y. 438.

The exclusion of unvaccinated children from the public schools, as provided by the public health law, is within the proper and reasonable exercise of the police power of the State and does not contravene the provision of the Constitution which requires the Legislature to "provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated." The right to attend the public schools of this State is necessarily subject to some restrictions and limitations in the interest of the public health. *Matter of Viemeister*, 179 N. Y. 235, aff'g 88 App. Div. 44; 84 N. Y. Supp. 712.

Board of education; succeeds to trusts of Public School Society

§ 1057 All the trusts held by or vested in the Public School Society of the City of New York, as heretofore organized and existing in compliance with the provisions of an act entitled, "An act relative to common schools in the city of New York," passed the 4th day of June, 1853, which have not been conveyed by the said society, and all the rights, powers and duties of said society, which yet remained therein, shall continue and be vested in the board of education of the city of New York, which board is, and shall be held to be the lawful successors of said society in the execution of every trust.

Board of education succeeds to duties and powers of former boards, etc.

§ 1058 Subject to the provisions of this act, and so far as is consistent therewith, the board of education of the city of New York, as created by the terms and provisions of this act, shall be subject to all the duties, possess all the rights and exercise all the powers respectively held by the board of education, the school boards of the several boroughs and the inspectors of common schools on the day when this act takes effect, excepting such duties, rights and powers as shall devolve upon the local school boards as provided in this act. The powers, duties and functions of all the school boards in the several boroughs within the city of New York, as they have heretofore been constituted, shall cease and determine, and their offices shall be abolished, on the first Monday of February, 1920, and the board of education, as constituted by this act, shall thereupon succeed to such powers, and become subject to such functions and duties as provided by this act.

Money to conduct schools to be raised by taxation

§ 1059 The board of estimate and apportionment and the board of aldermen of the city of New York may raise and collect by tax, on the estates, real and personal, liable to taxation in said city, such sum of money as may be necessary to provide for the conduct of the schools as called for by the budget adopted by the said board of estimate and apportionment and the said board of aldermen pursuant to the provisions of this act.

Special and general school funds; all moneys to be administered by board of education

§ 1060 All moneys raised for educational purposes in the city of New York shall be raised in two funds, to be known as the special school fund and the general school fund, respectively. The general school fund shall consist of all moneys raised for the payment of salaries of the city superintendent, associate city superintendents and district superintendents, director and assistant director of the division of reference and research; members of the board of examiners, attendance officers, lecturers and all members of the supervising and teaching staff, throughout all boroughs, in conformity with section 1091 of this act. The special school fund shall contain and embrace all moneys raised for educational purposes not comprised in the general school fund. It shall be the duty of the board of estimate and apportionment and of the board of aldermen to indicate in the budget in raising the special school fund the respective amounts thereof which shall be available for use in the several boroughs. The general school fund shall be raised in bulk, and for the city at large. The board of education shall have power to administer and shall administer all moneys appropriated or available for educational purposes in the city of New York. (*As amended by L. 1914, ch. 476.*)

Administration of funds by board of education; suit to recover teachers' salary. The only relation the city has to the subject of public education is as the custodian and depository of school funds, and its only duty with respect to that fund is to keep it safely and disburse the same in accordance with the instructions of the board of education. The city, as trustee, has the title to the money, but it is under the care, control and administration of the board of education, and all suits in relation to it must be brought in the name of the board. A suit to recover a teacher's salary is a suit affecting or in relation to the school funds and must be brought against the board, not against the city. *Gunnison v. Board of Education of the City of New York*, 196 N. Y. 11, aff'g 80 App. Div. 480; 81 N. Y. Supp. 181.

Board of education; how constituted; president; vacancies; members to serve without pay

§ 1061 There shall be in the city of New York as constituted by this act, a board of education, which shall have the management and control of the public schools and of the public school system of the city, subject only to the general statutes of the State relating to public schools and public school instruction, and to the provisions of this act. The board of education of the city of New York

shall consist of forty-six members, twenty-two being residents of the borough of Manhattan; four of the borough of the Bronx; fourteen of the borough of Brooklyn; four of the borough of Queens, and two of the borough of Richmond. The members of the board of education shall be appointed by the mayor and hold office for the term of five years. On the first Monday of February, in the year 1902, and in every year thereafter, the said board of education shall organize by electing one of its members as president of the board, who shall preside at its meetings, and shall have the same power to vote thereat as any other member, but who shall not have the power of veto. Any vacancy in the office of members of the board of education, caused by death, resignation, or otherwise, shall be filled by appointment by the mayor for the unexpired term, subject to the provisions as to the residence of such members hereinbefore set forth. On the third Monday of January, 1902, the mayor shall appoint members of the board of education to serve until the dates hereinafter specified, namely: In the borough of Manhattan, five members until January 1, 1903; five members until January 1, 1904; four members until January 1, 1905; four members until January 1, 1906; and four members until January 1, 1907. In the borough of Brooklyn, three members until January 1, 1903; three members until January 1, 1904; three members until January 1, 1905; three members until January 1, 1906, and two members until January 1, 1907. In the borough of the Bronx, one member until January 1, 1903; one member until January 1, 1905; one member until January 1, 1906; and one member until January 1, 1907. In the borough of Queens, one member until January 1, 1903; one member until January 1, 1905; one member until January 1, 1906; and one member until January 1, 1907. In the borough of Richmond, one member until January 1, 1904; and one member until January 1, 1907. In the month of November prior to the expiration of the respective terms of office of the members of the board of education, appointed as aforesaid, the mayor shall appoint their successors to serve for the full term of five years from the first day of January following. The terms for which such appointments are made shall be designated in the certificates of appointment of such members. A change of residence by a member of the board of education from the borough from which he is appointed shall vacate his office. Members of the board of education shall serve without pay, and shall hold no office of emolument under the county, State or municipal government, except the offices of notary public or commissioner of deeds or offices in the national guard.

Idem; to possess powers and privileges of a corporation

§ 1062 For the purposes of this chapter, the board of education of the city of New York shall possess the powers and privileges of a corporation.

Board of education as a body corporate. The settled policy of the State from an early date was to divorce the business of public education from all other municipal interests and to take charge of it as a peculiar and separate function through agents of its own selection and immediately subject and responsive to its control. To this end it is enacted that the general laws of the State that all school trustees and boards of education shall be corporations with corporate powers, which, of course, includes the power to sue and be sued

in all matters relating to the control and management of the schools. *Gunnison v. Board of Education of the City of New York*, 196 N. Y. 11, aff'g 80 App. Div. 480; 81 N. Y. Supp. 181.

Idem; to appoint an executive committee; powers of committee

§ 1063 It shall be the duty of the board of education in the month of February, 1902, and in each year thereafter in the month of July to appoint a standing committee of fifteen members of the board, who shall, subject to the approval of the board, constitute an executive committee for the care, government and management of the public school system of the city, subject to the by-laws of the board of education. At least one member of such committee shall be selected from each borough. The said board of education may by its by-laws confer upon said committee power to perform any of the administrative powers of the board. It shall be the duty of said executive committee to perform such duties as the board of education may by by-law prescribe. The board of education may, at any regular meeting thereof, by a majority of all the members of the board, remove any or all the members of the said committee, and appoint other members of the board to the vacancies thus created. Said executive committee shall meet at least once in each month. All reports of committees of the board appointed under its by-laws shall be presented to the executive committee for its consideration and action before being presented to the board, unless otherwise ordered by the board. The president of the board shall be ex officio the chairman of the executive committee.

Idem; to be representative of school system; to submit estimate for entire school system

§ 1064 The board of education shall represent the schools and the school system of the city of New York before the board of estimate and apportionment, and before the board of aldermen, in all matters of appropriations in the budget of the city for educational purposes, and in all other matters, and shall in general, be the representative of the school system of the city in its entirety. On or before the 15th of September in each year it shall submit an estimate in detail of the moneys needed for the entire school system of the city, during the next succeeding calendar year, to the board of estimate and apportionment for its action. The board of estimate and apportionment shall appropriate for the general school fund for the year 1902 and, annually, for each year thereafter, an amount equivalent to not less than three mills on every dollar of assessed valuation of the real and personal estate in the city of New York, liable to taxation. In case the amount so appropriated for the general school fund exceeds the expenditures and ascertained liabilities chargeable to such fund during any one year, the amount by which the said general school fund exceeds said expenditures and liabilities shall become part of the general school fund for the next succeeding year, and the amount to be raised by tax for said fund shall be diminished by the amount of said excess. The board of education shall administer all moneys appropriated or available for educational purposes in the city of New York, subject to the

general provisions of this act relating to the audit and payment of salaries and other claims by the department of finance. (*As amended by L. 1903, ch. 43.*)

Idem; to use and control certain premises

§ 1065 The board of education shall have power to use and to control the premises known as the hall of the board of education, at the corner of Park avenue and Fifty-ninth street in the borough of Manhattan, and any other buildings to be occupied for like purposes in the city of New York, and to make all repairs, alterations and additions in and to the said building or buildings which the board of education may authorize and deem advisable. It shall provide such offices and rooms, as it may deem advisable within the boroughs of the city of New York, for the administration of the powers and duties conferred by this chapter upon the board of education, the board of superintendents, and the city superintendent.

Idem; to dispose of personal property; disposition of proceeds; to lease property and make contracts

§ 1066 Subject to the provisions of this section relating to the disposition of discarded school books the board of education shall have power, in the name of the city of New York and for said city, to dispose of such personal property used in the schools or other buildings under the charge of said board as shall no longer be required for use therein. The said board may sell at prices as may be agreed upon such manufactured articles or other products of any of its schools, day and evening, as may not be utilized by the board of education, and all moneys realized by the sale thereof shall be paid into the city treasury and shall at once be appropriated by the board of estimate and apportionment to a special fund to be administered by the board of education for such purposes as said board, in its discretion, may determine. All other moneys realized by the sale of personal property shall be paid into the city treasury and shall at once be appropriated by the board of estimate and apportionment, to the special school fund of the board of education for use in the borough in which the property sold was situated. Said board shall have power to lease property required for the purpose of furnishing school accommodations, and to prepare and execute leases therefor. The board may dispose of, to the best advantage of the city, either by sale or on the basis of money allowance for waste paper all books delivered to the several public schools that have been discarded either by reason of being obsolete, no longer required by the course of study, worn by long usage or mutilated by accident. If disposal is made by sale, it shall be to the highest bidder who guarantees to destroy said useless and discarded books, and the money realized shall be paid into the city treasury and shall at once be appropriated by the board of estimate and apportionment to the special school fund entitled "supplies" of the board of education as designated by said board. If disposal is made on the basis of money allowance for waste paper, it shall be to the highest bidder who guarantees to destroy said useless and discarded books and who shall name a price per pound and shall

deliver new books to the aggregate value of said discarded and useless books, upon the order of the board of education. Said disposal of discarded books need not be publicly advertised, nor is it necessary to enter into a formal contract. Should the discarded books be in such a condition that no sale or exchange can be made, or should there be reason to believe that said discarded books have become infected through disease among the pupils, the committee on supplies of the board of education may authorize their destruction by fire, in which event the superintendent of school supplies shall obtain and file in his office a certificate that such books have been so destroyed, signed by the principal of the school in which the books are located. (*As amended by L. 1910, ch. 456; L. 1913, ch. 35; L. 1914, ch. 477; L. 1915, ch. 602.*)

Board of education; to appoint certain officers, clerks etc., and fix their salaries

§ 1067 The said board of education shall have power to appoint a secretary of the board; a superintendent of school buildings, who shall be an architect of experience and good standing, and whose term of office shall be for six years; a superintendent of school supplies whose term of office shall be for six years; a city superintendent of schools for the term of six years; a supervisor of lectures for the term of six years; a director and assistant director of the division of reference and research; and one or more auditors. The said board may appoint a chief clerk and such other officers, clerks, or subordinates as it may deem necessary for its administrative duties, and as are provided for by the proper appropriation. The city superintendent of schools, any associate city superintendent, any district superintendent, the supervisor of lectures, any member of the board of examiners, the director and assistant director of the division of reference and research, the secretary of the board of education, the superintendent of school buildings, the superintendent of school supplies, the auditor or auditors, and any other officers, clerks or subordinates of the board, may, any or either of them, be removed for cause at any time by a vote of three-fourths of all the members of the board of education, and may be suspended by the board of education pending the trial of charges. The said board shall fix and regulate within the proper appropriation the salaries or compensation of the city superintendent of schools, of the associate city superintendents and the district superintendents, of the director and assistant director of the division of reference and research, and of members of the board of examiners. (*As amended by L. 1914, ch. 476.*)

Salary during suspension. A clerk employed by the board of education who has been duly removed from his position by the board is not entitled to his salary for the period of suspension pending trial. It is the intent of the statute that the dismissal relate back to the time of suspension. *People ex rel. Curren v. Cook*, 117 App. Div. 788; 102 N. Y. Supp. 1087.

Idem; power to enact by-laws, rules and regulations

§ 1068 The board of education shall have power, subject to the provisions of law and of this act, to enact by-laws, rules and regulations for the proper

execution of all duties devolved upon the board, its ¹member and committees and upon the several local school boards; for the transaction of all business pertaining to the same, for defining the duties of the city superintendent of schools, the director and assistant director of the division of reference and research, the superintendent of school buildings, the superintendent of school supplies, of its auditor or auditors, its clerks and subordinates; for regulating the manner of making disbursements from any of the funds apportioned to any borough for school purposes, for the proper execution of all powers vested in it by law, and for the promotion of the welfare and best interests of the public schools and public school system of the city in the matters committed to its care. Until the board of education shall act under the provisions of this section the by-laws, rules and regulations of the board of education and of the several borough school boards in force on the 1st day of January, 1902, shall remain in full force and effect so far as they are not inconsistent with the provisions of this act and are applicable. (*As amended by L. 1914, ch. 476.*)

Resolution as to licensing teachers. The board may provide by resolution for separate lists of men and women license holders, and prescribe different qualifications for men and women applicants for licenses. *Matter of Schlivinski v. Maxwell*, 80 App. Div. 313; 80 N. Y. Supp. 726.

Removal of teacher. The board has no power to pass a by-law to provide for the compulsory termination of the employment of a teacher except in the manner provided for in sections 1093 and 1101 of this charter. *People ex rel. Murphy v. Maxwell*, 177 N. Y. 494, rev'g 87 App. Div. 131; 83 N. Y. Supp. 1098.

By-law disciplining janitor. This section authorizes the adoption by the board of a by-law providing for the fining of a janitor for the infraction of regulations relating to janitors. A contract with a janitor is subject to the power of the board to adopt and enforce such a by-law. *Farrell v. Board of Education*, 67 Misc. 187; 122 N. Y. Supp. 289; *Egan v. Board of Education of New York*, 70 Misc. 518.

Board of education succeeds to specific powers heretofore exercised by borough boards

§ 1069 The board of education shall, in addition to the other powers herein expressly conferred, have power:

1 To establish and conduct elementary schools, kindergartens, manual training schools, trade schools, truant schools, evening schools and vacation schools.

2 To maintain free lectures and courses of instruction for the people of the city of New York.

3 To provide special classes, whose sessions shall be held at such times in the day or evening as said board may determine, for the purpose of giving instruction in the English language to persons who can not use that language readily, and whose vocations are such as to prevent their attending the elementary or other schools in the school system.

4 To provide one or more high schools and training schools or classes for teachers, as it may from time to time determine, and as the appropriations may permit. The said training schools or classes shall be under the control of the

¹ So in the original.

board of education and of the city superintendent of schools to the extent that may be necessary to secure compliance with chapter 1031 of the Laws of 1895.

5 To establish and conduct playgrounds in connection with the public schools.

6 To establish new schools and discontinue or consolidate any of the schools of the system.

7 To enter into a contract or contracts, from time to time, subject however to the approval of the board of estimate and apportionment, with any street railway company, operating in the city of New York, for the transportation of school children to and from any public school in the city of New York at special rates not to exceed one-half the usual or customary rate of fares charged by such street railway companies, and to pay for such transportation out of the special school fund. The board of estimate and apportionment is hereby authorized and empowered to appropriate and include in the annual budget such sum or sums of money as may be necessary for the purpose of this act. (*As amended by L. 1904, ch. 542; L. 1914, ch. 479.*)

8 The board of education shall have power to establish a bureau of compulsory education, school census and child welfare and subject to the provisions of law and of this act, the said board shall have power to make by-laws, rules, regulations and prescribe forms for the proper performance of the duties of all persons employed in and under the direction of said bureau. On the nomination of the board of superintendents the board of education shall have power to appoint a director and an assistant director of the said bureau for a term of six years each, and such attendance officers, enumerators, clerks and other employees as may be necessary, and to fix their salaries within the proper appropriation; to assign a chief attendance officer, and one or more attendance officers as supervising attendance officers for such periods as may be prescribed in the by-laws of the board of education. No person shall be eligible for the position of director or of assistant director of the said bureau who has not one of the following qualifications: (a) Graduation from a college or university recognized by The University of the State of New York, together with five years' experience in teaching or supervision since graduation. (b) A principal's license for any of the boroughs of the city of New York obtained as the result of an examination, together with ten years' experience in teaching or supervision. The director and assistant director shall be participants in the teachers' retirement fund under section 1092 of the charter of the city of New York and be subject to its provisions. Attendance officers employed under the direction of the said bureau shall perform duties in connection with the enforcement of the compulsory education law, in the taking of a school census, and in connection with the employment of children under the labor law, and such other duties, not inconsistent with this act, as the director of the bureau or the board of education may prescribe. It shall be the duty of persons in parental relation to any child between the ages of four and eighteen years residing in the city of New York to give to the educational authorities of the district within which they severally reside, all the information prescribed in section 650 of article 24 of the Education Law of the State relating to such child, and such other information as may be required. Persons in parental relation who with-

hold such information shall be liable to the penalty prescribed in section 653 of article 24 of the Education Law of the State. It shall be the duty of attendance officers, acting as census enumerators, to collect the information prescribed in section 650 of article 24 of the Education Law and such other information as the State Commissioner of Education or the board of education may require.

The director of the bureau of compulsory education, school census and child welfare, herein established, shall, subject to the by-laws of the board of education and in its name, enforce the compulsory education law, direct attendance officers in their duty, commit and parole truant and delinquent children and proceed against those in parental relation in the manner provided in section 635 of chapter 140 of the Laws of 1910 as amended, any provision of the said law or of section 1078 of the charter of the city of New York to the contrary notwithstanding. The assistant director shall perform such duties in connection with the supervision of the school census, or otherwise, as the director, subject to the by-laws of the board of education, may prescribe. Under the direction of the board of education the city superintendent of schools shall have a general supervision of the bureau of compulsory education, school census and child welfare.

On or about May 1, 1914, the board of education shall ascertain the information required by section 650 of article 24 of the Education Law of the State relating to a census of all persons within the city of New York between the ages of four and eighteen years of age. Thereafter such census shall be amended from day to day by attendance officers, clerks and other employees under the supervision of the director, as changes of residence occur among children of such city within the ages prescribed in this article, and as other persons come within the ages prescribed, and as other persons within such ages shall become residents of such city, so that said board of education in its census bureau shall always have on file a complete census of the names and residences of the children between such ages and of the persons in parental relation thereto.

The expense of carrying out the provisions of this act, except the salaries of directors and attendance officers, shall be paid out of the special school fund as created by section 1060 of the charter of the city of New York.

A teacher in an evening school is in no sense a public officer, nor is the compensation he receives a salary fixed by law as an incident to an office. The board of education has power to reduce such compensation to what it believes his services are worth, in the absence of an express agreement. *Morris v. Board of Education*, 54 Misc. 605; 104 N. Y. Supp. 979; *aff'd* 124 App. Div. 921.

Idem; secretary; duties; secretary and chief clerk may administer oaths

§ 1070 The secretary of the board of education shall have charge of the rooms, books, papers and documents of the board, and shall, in addition to his duties as secretary of the board, perform such other duties as may be required by its members or committees. The secretary and the chief clerk of said board are authorized to administer oaths and take affidavits in all matters appertaining to the schools in the city of New York, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any of the fees or emoluments thereof.

Idem; provide for branches etc., in boroughs

§ 1071 The board of education shall make provision for the organization in the various boroughs of such branches as they may deem necessary in the bureaus of the superintendents of school buildings and of school supplies, and shall make such provisions by its by-laws as will secure prompt and efficient service for the selection and acquisition of sites, the planning and erection of new buildings for school purposes, and for the alteration and repair of existing buildings, and for the regulation of the purchase and distribution of school books and supplies, and for the execution and carrying into effect of all matters and things, authority for which shall have been granted by the board, and for the preservation of all school records. Subject to such by-laws, the superintendent of school buildings shall be the executive officer of the board in respect to all matters relating to the bureau of buildings, or in respect to which he is charged with duties under the provisions of this act. He shall advertise for bids for the erection, alteration or repair of any building to be used for educational purposes in the city of New York which has been authorized by the board of education.

Superintendent of school buildings; oath and security by; subject to regulations of board; vacancy in office

§ 1072 The superintendent of school buildings shall take and subscribe before the secretary or the chief clerk of the board of education, the oath prescribed by the constitution of this State, and give such security for the faithful performance of the duties of his office as the board of education may direct; and the bureau under his charge shall be subject to such rules and regulations as the board may establish, one of which shall prohibit the performance by him of any work, on any other account, similar to that performed under the regulations so established, except for the Normal College of the City of New York, and like institutions in the department of education. Any vacancy in the said office of superintendent of school buildings shall be filled by appointment for the unexpired term.

Idem; deputy in each borough; plans for school buildings

§ 1073 The superintendent of school buildings may appoint a deputy superintendent for each of the boroughs, who shall be an architect or engineer in good standing, and, with the authority of the board of education, he may empower a deputy superintendent in his place and stead to execute all the duties of superintendent and such other duties as the board of education may, by regulation, prescribe. All plans for new school buildings, for additions to school buildings, and for structural changes in old buildings, shall be passed upon, and must be approved by the superintendent of school buildings, who shall submit such plans to the board of education, whose action thereon shall be final.

Where a contract for the erection of a schoolhouse provides that the decision of the superintendent of school buildings on any question as to the execution of the contract

shall be final and conclusive upon the contractors, such decision is conclusive in the absence of fraud or plain and palpable mistake. *Jones v. City of New York*, 60 App. Div. 161; 70 N. Y. Supp. 46.

Idem; appointment of janitors

§ 1074 Janitors shall be appointed by the board of education.

A janitor may be removed by the board of education without trial or judicial hearing. The fact that he has been given a hearing does not make the action of the board a judicial determination reviewable by certiorari. *People ex rel. Purcell v. Simonson*, 66 App. Div. 18; 72 N. Y. Supp. 957.

Board of education; purchase of; and regulations regarding, supplies

§ 1075 The board of education shall provide for the purchase of all books, apparatus, stationery and other things necessary and expedient to enable the schools of the city to be properly and successfully conducted. It shall cause to be furnished all necessary supplies, and shall make regulations for the furnishing thereof to the schools in the several boroughs. The board of education shall have power to enact by-laws and resolutions for the government of the superintendent of supplies, which by-laws and resolutions shall provide that all supplies, as far as possible, shall be obtained by contract, made at public letting in the manner provided by section 419 of this act.

Superintendent of supplies; oath and security by; subject to regulations of board; vacancy; deputy superintendents and subordinates; depots of supplies

§ 1076 The superintendent of school supplies shall take and subscribe before the secretary or the clerk of the board of education the oath prescribed by the constitution of this State, and shall give such security for the faithful performance of the duties of his office as the board of education may direct; and the bureau under his charge shall be subject to such rules and regulations as the board may establish. Any vacancy in the said office of superintendent of school supplies shall be filled by appointment for the unexpired term. The superintendent of school supplies may appoint such deputy superintendents and such other subordinates as the by-laws of the board of education may authorize, and he may, with the authority of said board, empower a deputy superintendent in his place and stead to execute all the duties of the superintendent, and such other duties as the board of education may by regulation prescribe. He shall establish such depots of supplies in any of the boroughs as may be authorized by the board of education. The superintendent of school supplies shall be the executive officer of the board in respect of the purchase, storing and distribution of all supplies for the use of the schools, the board of education, the officers and the employees thereof, the several local school boards and the office of the city superintendent; the printing for the board and any of its officers, employees or departments, and the local school boards; transportation of school children; and such other matters as may be assigned to him as such executive officer by the by-laws of the board. He shall advertise for bids for supplies and equipments, for the use of the schools, the board of education or any of the bureaus thereof

and the several local school boards, which have been authorized by the board of education, and when such advertisement is required by law or the by-laws of the board.

City superintendent of schools; rights and duties

§ 1077 The city superintendent of schools shall have the right of visitation and inquiry in all of the schools of the city of New York as constituted under this act, and he shall report to the board of education on the educational system of the city, and upon the condition of any and all of the schools thereof. He shall have a seat in the board of education, and the right to speak on all matters before the board, but not to vote.

Idem; further duties; annual report; clerks of main office

§ 1078 The city superintendent of schools, so often as he can consistently with his other duties, shall visit the schools of the city as he shall see fit, and inquire into all matters relating to the government, course of instruction, methods of teaching, management and discipline of such schools, and the condition of the schoolhouses and of the schools generally; and shall advise and encourage the pupils and teachers and officers thereof; subject to the by-laws of the board of education, he shall prescribe suitable registers, blanks, forms and regulations for the making of all reports, and for conducting all necessary business connected with the school system and he shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the schools, and the due execution of their duties by school officers, to be transmitted to the officers or persons entrusted with the execution of the same. He shall submit to the board of education an annual report containing a statement of the conditions of the schools of the city, and all such matters relating to his office, and such plans and suggestions for the improvement of the schools and the school system, and for the advancement of public instruction in the city of New York as he shall deem expedient, and as the by-laws of the board of education may direct. He shall under the direction of the board of education enforce the compulsory education law, and shall nominate attendance officers to the board of education and shall direct such officers in their duties. He may appoint such clerks as he may deem necessary, and as are authorized by the board of education. He shall assign his clerks to the various duties, and may suspend or discharge them for cause, but in such case, the clerks shall have a right of appeal to the board of education. He shall report as often as the board of education shall direct upon any matter or matters, entrusted to his charge, in such detail as shall be required of him. He shall maintain his main office in the borough of Manhattan, and in such building as the board of education shall direct. He shall have power, at any time, to call together any or all of the associate city superintendents and district superintendents for consultation, and shall assign to them, subject to the by-laws of the board of education, such duties as in his judgment will be conducive to the welfare of the public schools of the city of New York. Twenty-three of the district super-

intendents shall be assigned by the city superintendent to the work of supervision in the local school board districts, to be constituted as hereinafter provided, in such manner that one district superintendent shall be assigned to such duty in two of such districts for the period of one school year. At the end of such period the city superintendent shall have power to change such assignments as he may deem best for the interests of the school system, but only in the manner above provided. District superintendents when not so assigned to such duty in said districts shall be assigned by the city superintendent to such other professional duties as the welfare of the school system may require. It shall further be the duty of the city superintendent to report any case of gross misconduct, insubordination, neglect of duty, or general inefficiency on the part of any associate city superintendent or district superintendent to the board of education. The city superintendent may empower an associate city superintendent to execute all the duties of the city superintendent during his absence or disability. (*As amended by L. 1913, ch. 45.*)

City superintendent, associate city superintendents, board of superintendents, district superintendents and directors

§ 1079 There shall be eight associate city superintendents, who, with the city superintendents, shall constitute the board of superintendents. They shall be appointed by the board of education by a vote of a majority of its members, and shall serve for the term of six years, provided, however, that the borough superintendents in office on the 1st day of January, 1902, shall serve out as associate city superintendents the terms for which they were appointed by the respective borough school boards heretofore existing, and upon the expiration of their respective terms of office their successors shall be appointed in the manner and for the term herein provided, and provided also that the other four associate city superintendents shall be appointed from the associate borough superintendents in office on the 1st day of January, 1902, and when so appointed they shall serve out as associate city superintendents the terms for which they were respectively appointed as such associate borough superintendents. The city superintendent shall preside over the board of superintendents, and all communications from the board shall be made in his name unless in any special case he may otherwise elect. The board of education shall have power to pass by-laws regulating the duties of the city superintendent and of the board of superintendents. There shall be twenty-six district superintendents to be appointed by the board of education for the term of six years upon the nomination of the board of superintendents, provided, however, that the associate borough superintendents in office on the 1st day of January, 1902, shall serve out as associate city superintendents or as district superintendents the terms for which they were appointed as such associate borough superintendents by the respective borough school boards heretofore existing; and upon the expiration of their respective terms of office their successors shall be appointed in the manner and for the term above provided. The offices of borough superintendent of schools

and associate borough superintendent of schools shall be abolished on the 1st Monday of February, 1902. Except as herein otherwise provided, no person shall be eligible for election as city superintendent, associate city superintendent, or district superintendent who has not one of the following qualifications: (a) graduation from a college or university recognized by The University of the State of New York, together with at least five years of successful experience in teaching or supervision since graduation; (b) a principal's certificate for any of the boroughs of the city of New York obtained as a result of examination, together with ten years' successful experience in supervision or teaching. Resignations of the city superintendent and the associate city superintendents shall be made to the board of education. Resignations of the district superintendents and directors of special branches shall be made to the board of superintendents and shall be reported immediately to the board of education. The board of education shall have power, upon the nomination of the board of superintendents, to appoint such directors of special branches as it deems necessary, for the term of six years; such directors shall be subject to the supervision and direction of the city superintendent. No person shall be eligible for election as director of a special branch, such as music, drawing, kindergarten, etc., who is not: (a) a graduate of a college or university recognized by The University of the State of New York; and (b) a graduate from a course of professional training of at least two years in the special branch that he is to supervise or teach; and (c) a teacher of that special branch with at least three years of successful experience. Nothing in this act contained shall prevent the reelection of any superintendent in office at the time of the passage of this act.

General duties of district superintendents

§ 1080 Under the supervision and direction of the city superintendent, district superintendents shall visit every school in the district to which they are assigned; shall inquire into all matters relating to the government, courses of study, methods of teaching, discipline and conduct of such schools, and the condition of the schoolhouses and of the schools generally; shall examine classes when necessary; and shall advise, assist and encourage the pupils and teachers thereof. The district superintendents shall report the results of such inspections and examinations to the city superintendent, who shall transmit such parts of said reports as he may consider necessary or proper to the board of education and to the local school boards for the districts for which the same are made respectively. Such reports shall be made at such times, concerning such matters, and in such form as said city superintendent shall require. It shall further be the duty of each district superintendent to report to the local school board within any district to which he is assigned, and through the city superintendent to the board of education, any case of gross misconduct, neglect of duty, or general inefficiency arising in such district on the part of any principal or teacher or other member of the educational staff within his jurisdiction.

Board of superintendents; list of principals etc., to be kept by; where principals report

§ 1081 The board of superintendents shall keep a list of all principals and teachers in the service of the board of education in the several boroughs, with a record of the dates of their appointment, the grades and classes taught by them, and such other matters as the board of superintendents may prescribe. Such lists shall be open to the inspection of teachers (as to their own records only), of members of the board of education, of the members of the local school boards, of district superintendents, and of principals. Principals shall report to the city superintendent or to the district superintendent within their district at such times, upon such matters, and in such form as the city superintendent or such district superintendent may require.

Promotion or transfer of pupils; rules and regulations

§ 1082 The board of superintendents shall establish for the schools, subject to the approval of the board of education, rules and regulations for the reception of pupils in the schools of the city, the promotion of pupils from grade to grade, from school to school, for the graduation from all grades of schools, and for the transfer of pupils from one school to another.

Recommendations of and requisitions for textbooks and scholastic supplies

§ 1083 The board of education shall, upon the recommendation of the board of superintendents, approve textbooks, apparatus and other scholastic supplies for use in the public schools of the city. Requisitions for such textbooks, apparatus and scholastic supplies shall be made by principals upon the superintendent of supplies under rules to be established by the board of education, but no requisition for any school shall be honored unless it is approved in writing by the district superintendent of the district where such school is situated.

Changing grades of schools and classes; courses of study

§ 1084 The board of education shall have power to change the grades of all schools and of all classes of the schools under its charge, and to adopt and modify courses of study for all schools. No such change or modification, however, shall be made unless such proposed change or modification is first submitted to the board of superintendents. The said board of superintendents shall thereupon within such time as the by-laws may prescribe and not less than forty days thereafter report thereon. In case such report is adverse, such change or modification shall not be effectual unless passed by a vote of two-thirds of all the members of the board of education. (*As amended by L. 1913, ch. 749.*)

Duties of the board of superintendents, city superintendent, district superintendents and supervisors with reference to special branches

§ 1085 The board of superintendents, with the advice of the directors of the respective special branches, shall assign to the several school districts such teachers

of drawing, music, physical culture, manual training, cooking, sewing or other special branches as the board of education may appoint. The district superintendents shall assign such teachers of special branches to their duties in the schools of the several districts to which they are appointed. The directors of special branches shall act as advisers to the board of superintendents, to the district superintendents, and to principals, with regard to the special branches they supervise; under the direction of the city superintendent they shall examine the work in their several branches, report upon the same, and instruct special teachers and class teachers in the teaching of their several branches.

Methods of teaching. Syllabuses of topics

§ 1086 Subject to regulations prescribed by the board of superintendents, and under the supervision of the district superintendent in charge, the principal of each school shall direct the methods of teaching in all classes under his charge. The board of superintendents shall have the power, from time to time, to issue syllabuses of the topics in the various branches taught, which shall be regarded as the minimum amount of work required in such branches.

Power to create local school board districts; presidents of the boroughs to appoint members of the local school boards; terms, organization etc., of local school boards

§ 1087 Prior to the 15th day of February, 1902, the board of education shall divide the boroughs under its charge into forty-six local school board districts, of which twenty-two shall be wholly in the borough of Manhattan, fourteen wholly in the borough of Brooklyn, four wholly in the borough of the Bronx, four wholly in the borough of Queens, and two wholly in the borough of Richmond. The districts in each borough must be compact in form, and, as near as may be, of equal school attendance in the public schools therein. Subject to such conditions of equality of school attendance and that the districts shall be compact in form, the board of education shall thereafter have power every five years, again to divide the said boroughs into said number of districts, making such changes in existing districts as it deems proper. Upon the division of the several boroughs into such districts, and upon any redivision thereof as above provided, the board of education shall file maps of the same, duly authenticated by the secretary of the board, in the office of the mayor of the city of New York, and at the same time shall also file in the office of the president of each borough a duplicate, similarly authenticated, of the portion of said maps showing the division or redivision of such borough into such districts. There shall be in each of said districts a local school board consisting of seven members, as follows: Five persons to be appointed by the president of the borough, a member of the board of education designated by the president of that board, as hereinafter provided, and the district superintendent assigned to duty in such district by the city superintendent, as hereinbefore provided. When the board of education, pursuant to the powers above conferred, shall have divided any borough or

boroughs into local school board districts, the presidents of the boroughs in which such districts are located respectively shall, within thirty days thereafter, appoint in and for each of such districts five members of the local school board to hold office respectively as may be designated in their letters of appointment, for one, two, three, four or five years from the 1st day of January next following the date of their appointments. Upon the expiration of their respective terms, such presidents shall appoint their successors for the full term of five years. Where boundaries of any of the local school board districts shall be changed by a redivision of a borough or any part thereof, the board of education shall have power, and it shall be its duty, to designate the new districts within which the local school boards appointed for districts affected by such redivision shall thereafter act. Such designation shall be made in such manner that the new district within which any local school board shall thereafter act shall contain a portion of the district for which such board was originally appointed. Within such new districts respectively the said local school boards shall have the same powers, duties and functions theretofore exercised by them within the districts for which they were originally appointed; and they shall serve out as members of the local school board for such new districts the term of office for which they were appointed respectively. All members of local school boards shall serve without pay, and shall be residents of the districts in and for which they are appointed, except that where local school boards are designated by the board of education to act in new districts created as aforesaid, it shall not be necessary for the members thereof to be residents of such districts during the remainder of their terms of office respectively. Any vacancy in any local school board caused by death, resignation or otherwise, shall be filled for the unexpired term by the president of the borough where such vacancy may occur. Each local school board shall, within ten days after all the members thereof shall have been appointed, in the year 1902, and on the second Monday of January in every year thereafter, organize by the election of two of its members as chairman and secretary. It shall meet as often as may be necessary for the efficient performance of the duties imposed upon it, and not less than once in each month excepting July and August. The president of the board of education shall designate each member of the said board to be an ex officio member of one local school board within the borough where such member shall reside, and he shall serve as a member of such local school board for the term of one year or until the earlier expiration of his term of office as a member of the board of education. When a member of the board of education shall cease for any cause to be a member of the local school board to which he is designated, the president of the board of education shall designate his successor as above provided. A member of the board of education sitting as a member of a local school board shall have power to vote, but shall not be eligible for election as the chairman or secretary of such board. The district superintendent assigned to any local school board district as herein provided shall have a seat in the local school board district¹ for such

¹ So in the original.

district, and the right to speak on all matters before the board. But he shall not have the right to vote or be eligible for election as chairman or secretary of the board. The powers, duties and functions of the inspectors of common schools in office on the 31st day of December, 1901, shall continue until the 15th day of February, 1902, or until the earlier division of the said boroughs into local school board districts as above provided, when they shall cease and determine and the offices of said inspectors shall thereupon be abolished.

Duties of local school boards

§ 1088 Subject to regulation by the by-laws of the board of education, the duties and powers of the local boards shall be as follows: (a) In their respective districts, they shall visit, at least once in every quarter, all the schools in the district, and inspect the same in respect to punctual and regular attendance of the pupils and teachers, the number and fidelity of the teachers, the studies, progress, order and discipline of the pupils, the cleanliness, safety, warming, ventilation and comfort of school premises, and the observance of the provisions of the school laws in respect to the teaching of sectarian doctrines or the use of sectarian books; and shall call the attention of the board of education, without delay, to every matter requiring official action. They shall also, on or before the 1st day of January and June of each year, make a written report to the board of education in respect to the condition of the schools, the efficiency of teachers, and wants of the district, especially in regard to schools and school premises. (b) They shall report immediately to the board of education whenever additional accommodation is necessary for kindergarten or elementary school purposes, with a recommendation of the sites within their respective districts which they consider it necessary to acquire for such purposes. They shall also recommend the erection of such buildings on said sites or on any other property owned by the city of New York, and such repairs or alterations of school buildings, as they deem necessary or desirable. They shall from time to time when additional school accommodation is necessary report to the board of education premises which are suitable and may be hired for that purpose, with the terms upon which the same may be obtained; such report shall be accompanied by a certificate from the borough president that the premises so recommended comply with the law and ordinances in relation to buildings to be used for school purposes. (c) They shall report immediately to the board of education any dereliction of duty on the part of the superintendent of supplies, superintendent of school buildings, the city superintendent, or any of their deputies or assistants or the employees in their respective departments, and they shall present to the board of education all of the facts and circumstances constituting such dereliction of duty. (d) They shall have power to excuse absences of teachers, within their respective districts, subject, however, to the approval of the board of superintendents in cases where teachers are excused with pay, and in accordance with by-laws of the board of education prescribing rules to govern all such cases. (e) They shall try and determine all matters relating to discipline, corporal punishment and other matters

affecting the administration of the schools in their respective districts arising upon the complaint of pupils, parents or guardians against teachers or principals, and shall impose such penalties as may be prescribed by the by-laws of the board of education. But they shall not have power to pass upon any such complaint against a teacher until after the matter has been referred to the principal of the school in which such teacher is employed, and he has made a report thereon.

(f) They shall have power, and it shall be their duty, to try charges made by a principal, a district superintendent or by any parent or guardian of a pupil, residing in the district, against a teacher employed within their respective districts, for gross misconduct, insubordination, neglect of duty or inefficiency. On receiving notice of said charges they shall immediately proceed to try and determine the case and shall fix the penalty or punishment to be imposed for the offense committed, which shall consist of a fine, suspension for a fixed time without pay, or dismissal. Their determination upon such charges and the penalty or punishment imposed therefor shall be reported immediately to the board of education, which may reject, confirm or modify the determinations of the local board, and the penalty or punishment imposed and the decision of the board shall be final except as to matters in relation to which, under the general school laws of the State, an appeal may be taken to the State Superintendent of Public Instruction. (g) They shall present charges of any dereliction of duty on the part of janitors in their respective districts and present proof thereof to the board of education. (h) They shall procure the enforcement of the law and the by-laws of the board of education relating to the sanitary condition of the schools and the health of the pupils in their respective districts. (i) They shall have power to transfer teachers from school to school within their respective districts, but only after hearing the principals of the schools affected by such transfers, and subject to the approval of the board of superintendents, provided, however, that such transfer shall not involve promotion or increase of salary. (j) They shall report to the board of education and to the board of superintendents all vacancies in the teaching force as soon as such vacancies shall occur. (k) Each local school board shall have power and it shall be its duty to adopt by-laws regulating the exercise of all powers and duties vested in it, which by-laws shall not conflict with the by-laws of the board of education or with the provisions of this chapter. Each local school board shall keep a record of the proceedings of the meetings of the board, which shall be open at all times to inspection by the board of education or any member thereof. The board of education shall from time to time provide for such expenses and furnish such clerical assistance as may be necessary for the proper performance by the local school boards of the city of the duties imposed upon them by this act. The secretary of a local school board shall have charge of the books, papers and documents of the board. He is hereby authorized to administer oaths and take affidavits in all matters pertaining to the schools of the city of New York in his district, in which a local school board has power to act, and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled

to any fees or emoluments thereof. The board of education shall provide meeting places for the local school boards, which may be in any of the school buildings in their respective districts.

A refusal to excuse absences of a teacher, even though on account of illness, is within the discretionary power of the board. *Murphy v. Board of Education*, 38 Misc. 706; 78 N. Y. Supp. 248, *aff'd* 87 App. Div. 277; 84 N. Y. Supp. 380.

Board of examiners; teachers' licenses, etc.

§ 1089 A board of examiners is hereby constituted whose duty it shall be to examine all applicants who are required to be licensed in and for the city of New York, and to issue to those who pass the required tests of character, scholarship and general fitness, such licenses as they are found entitled to receive. Such board of examiners shall consist of the city superintendent of schools, together with four persons appointed by the board of education upon the nomination of the city superintendent. The terms of the first four examiners so appointed shall be one, two, three and four years, respectively, and as their terms respectively expire, their successors shall be appointed for a full term of six years, which shall thereafter be the full and regular term of office of said examiners. They shall be paid such compensation as the board of education shall prescribe. The city superintendent of schools shall have power with the consent of the board of education to employ assistants temporarily at rates to be fixed by the board of education. To be eligible to appointment as an examiner, an applicant must possess some one of the following qualifications, to wit: (a) A degree or diploma of graduation from a college or university recognized by the Regents of The University of the State of New York, together with at least five years' successful experience in teaching since graduation. (b) A state certificate obtained as the result of an examination held since 1875, together with at least ten years' successful experience in teaching. (c) The highest certificate for a principal or superintendent in force when this act takes effect in any city included in the city of New York as constituted by this act, together with at least ten years' successful experience in teaching. No associate city superintendent, district superintendent, principal or teacher in the city of New York shall be allowed to serve on the board of examiners. The board of education on the recommendation of the board of superintendents shall designate, subject to the requirements of the State school law in force when this act takes effect or that may thereafter be enacted, the kinds or grades of licenses to teach which may or shall be used in the city of New York, together with the academic and professional qualifications required for each kind or grade of license. The board of education, on the recommendation of the board of superintendents, shall also designate, subject to the like limitations, the academical and professional qualifications required for service of principals, branch principals, supervisors, heads of departments, assistants and all other members of the teaching staff. The board of examiners shall hold such examinations as the city superintendent may prescribe, and shall prepare all necessary eligible lists, which shall be kept in the office of the city superintendent of schools, and be open to

inspection by members of the board of education, associate city superintendents and district superintendents, and local school boards. All licenses shall be issued in the name of the city superintendent of schools. Graduates of colleges and universities recognized by the Regents of The University of the State of New York, who have pursued for not less than one year pedagogical courses satisfactory to the city superintendent; graduates of schools and colleges for the training of teachers, approved by the State Superintendent of Public Instruction; and teachers holding a state certificate issued by the State Superintendent of Public Instruction since the year 1875, or holding a college graduate's certificate issued by the same authority, or persons who on the first Monday of February, 1902, shall be associate borough superintendent of schools in any borough of the city of New York, may be exempted, in whole or in part, from such examination at the discretion of the city superintendent. The names of those to whom licenses have been granted, including those exempted from examination and those duly licensed in the several boroughs prior to the date on which this act takes effect, shall be entered by the city superintendent upon lists to be filed in his office, a separate list being made for each grade or kind of license for which the board of education shall by its by-laws make provision. Such eligible lists shall not be merged and one eligible list shall be exhausted before nominations are made from a list of subsequent date. Provided, however, no eligible list shall remain in force for a period longer than three years, excepting the principals' eligible list, which shall remain in full force and effect until exhausted. Such lists shall always be open to the inspection of the members of the board of education, the members of the local school boards, the associate city superintendents, the district superintendents, and the principals of schools. Except as city superintendent or associate city superintendent or district superintendent, as director of a special branch, as principal of or teacher in a training school or as principal of a high school, no person shall be appointed to any educational position whose name does not appear upon the proper eligible list. No person shall teach in any public school in the city who has not such license, except as herein otherwise provided, nor shall any unlicensed teacher have any claim for salary. Licenses to teach shall be issued by the city superintendent of schools for a period of one year, which may be renewed without examination in case the work of the holder is satisfactory to the city superintendent for two successive years. At the close of the third year of continuous, successful service, the city superintendent may make the license permanent. Authority to revoke any permanent license for cause shall be vested in the State Superintendent of Public Instruction. (*As amended by L. 1901, ch. 718; L. 1912, ch. 455.*)

The city superintendent is made the custodian of the lists and there is imposed upon him the duty of preparing such lists and filing them in his office. Hence he, and not the board of examiners, is the proper party against whom mandamus should be brought to compel the placing of a name on the lists. *Matter of Schlivinski v. Maxwell*, 80 App. Div. 313; 80 N. Y. Supp. 726.

The power to issue licenses is purely executive, ministerial or administrative and not in any sense judicial, and hence can not be reviewed by certiorari. *Matter of Walker v. Maxwell*, 68 App. Div. 196; 74 N. Y. Supp. 94.

The provision as to making the license permanent is not mandatory; and the fact that the probationary term of three years of a person teaching under a temporary license is extended by the city superintendent by special license, does not entitle the licensee to receive a permanent license. *People ex rel. Finigan v. Bd. of Education*, 106 App. Div. 101; 94 N. Y. Supp. 61; aff'd 192 N. Y. 572.

Discrimination between males and females. The board of education has a wide discretion in determining whether a given position shall be filled by a man or a woman; so it may make separate eligible lists for male and female teachers, and may appoint a male of a lower relative standing to a position which, in the exercise of a reasonable discretion, the board determines should be filled by a man. *Fitzpatrick v. Board of Education*, 69 Misc. 78; 125 N. Y. Supp. 954.

Separate lists for men and women license holders and different qualifications for men and women applicants for licenses may be prescribed by the board of education in its discretion. *Matter of Schlivinski v. Maxwell*, 80 App. Div. 313; 80 N. Y. Supp. 726.

A person holding a temporary license to teach is not entitled to mandamus to reinstate her in her position as teacher, even though such license was granted prior to the taking effect of the charter. *People ex rel. Christie v. Bd. of Education*, 56 App. Div. 368; 67 N. Y. Supp. 836; aff'd 167 N. Y. 626.

Persons licensed prior to charter. The charter provides that the city superintendent shall make up a single list of all persons eligible to appointment as principals of schools, and this list must include the names of those licensed prior to the time the charter went into effect. *People ex rel. Goldey v. Maxwell*, 65 App. Div. 265, 72 N. Y. Supp. 527; aff'd 169 N. Y. 608.

But this section relates only to those engaged in teaching within the limits of Greater New York at the time the charter went into effect. So, a person licensed in 1855 and who taught in the grammar schools of New York City from 1861 to 1865, but has had no connection with such schools since, is not entitled to have his name placed upon a list of eligibles for the position of principal as provided by this section. The court may take judicial notice that the methods of instruction have so changed in the last quarter of a century that those who were competent to teach then would not necessarily be qualified to teach now. *People ex rel. Sprague v. Maxwell*, 87 App. Div. 391; 84 N. Y. Supp. 947.

The provision that the teachers licensed in the several boroughs prior to the adoption of the charter shall be included in the eligible lists prepared by the city superintendent, applies only to teachers actually engaged in teaching at the time the charter took effect, and not to a person who, although having previously taught, resigned prior to that time. *Matter of Walker*, 120 App. Div. 571; 105 N. Y. Supp. 533; aff'd 190 N. Y. 566.

A grade "A" license of the former city of Brooklyn does not entitle the holder to an appointment as head of a department in the schools of Greater New York. *Hazen v. Board of Education*, 127 App. Div. 235; 111 N. Y. Supp. 337.

Teacher in the town of Flushing. The mere fact that a person, holding a second grade school commissioner's certificate, was a teacher in a public school in the town of Flushing at the time that town was incorporated into Greater New York, did not constitute that person a member of the teaching staff of the greater city, nor did the issuance to her thereafter of a first grade school commissioner's certificate affect her status as a member of the teaching force of the city. *People ex rel. Finegan v. Bd. of Education*, 106 App. Div. 101; 94 N. Y. Supp. 61; aff'd 192 N. Y. 572.

Appointment and resignation of principals and teachers

§ 1090 Principals, branch principals, heads of departments, teachers, assistants and all other members of the teaching staff, shall be appointed by the board of education on the nomination of the board of superintendents. Such nominations and appointments shall be made except in the case of high schools or training

schools for teachers, for the several local school board districts respectively, and when so made the principals, branch principals, heads of departments, teachers, assistants and all other members of the teaching staff shall be assigned to duty to such schools, and to such positions in such schools, as the board of superintendents shall determine. Where practicable, teachers shall be appointed for districts in the boroughs where they reside. Teachers and principals may be promoted or transferred from one school to any other school within the city by the board of superintendents subject to the approval of the board of education; provided, however, that a teacher shall not be transferred from a school in one borough to a school in another borough without his or her consent. For all purposes affecting the appointment, promotion or transfer of the teachers in any school, the district superintendent assigned to the district in which such school is situated, the principal of such school and, in the case of transfer, the district superintendent and the principal of the school to which it is proposed to transfer a teacher, shall have seats in the board of superintendents, with votes on such proposition. The provisions of this section shall not be held to affect or impair the power of the several local school boards to transfer teachers from school to school within their respective districts, as hereinbefore provided. The nominations provided for above must be made from the list of properly certificated principals and teachers and other persons eligible for service in the positions to be filled, in the regular order of the standing of the candidates on said lists, provided, however, that the board of superintendents may consider for each appointment the three persons whose names are highest on the appropriate eligible lists. Existing eligible lists in the city of New York and the relative standing of persons whose names are on said lists shall not be effected by the passage of this act. The time within which said board of education shall finally act upon said nominations, either by appointing such principal or teacher or other officer or by rejecting such nominations, is hereby fixed at forty days from the filing of such recommendation in the office of the secretary of the board. The failure on the part of the board of education to confirm or to reject a nomination within the time prescribed herein shall be held as equivalent to the appointment of the principal or teacher nominated. In case of a failure or of repeated failures to appoint, other names shall be submitted to the board of education for its consideration within two weeks after each failure, until an appointment is made. In case of the consolidation of schools or of the discontinuance of any school, principals and teachers of good standing, who thereby may be deprived of employment, shall be preferred in appointments to be made in any of the schools of the city. Resignations of principals and teachers, and of all other members of the teaching staff, shall be made to the city superintendent.

Mandamus to compel appointment of petitioner to position of assistant to the principal or head of department on the nomination of the board of superintendents, will be denied where application was not made within forty days from filing such recommendation and while a vacancy existed to which the board of education could have appointed the petitioner. *Norman v. Board of Education*, 203 N. Y. 548, aff'g 142 App. Div. 939.

A principal may be transferred to another borough without his consent. In the requirement of the consent of a teacher to such transfer, the word teacher is not used generically to include principal. *Matter of Barringer v. Board of Education*, 140 App. Div. 903; 125 N. Y. Supp. 540.

Senior teachers. Under the by-laws of the board of education providing that in certain schools extra compensation be paid to the teacher of highest grade for acting as senior teacher, such a teacher who was appointed by the principal of the school to the knowledge of the district superintendent so to act, can recover the additional compensation, although not appointed either by the school board or later by the board of education. Whether acceptance of his regular salary estops him from claiming the extra compensation is a question for the jury. *Dildine v. Board of Education*, 133 App. Div. 262; 117 N. Y. Supp. 578.

A principal of a night school, who was also principal of a day school, is not entitled to preference in appointment to the principalship of a night school when through the discontinuance of a night school he is thrown out of his position as principal thereof. He was not deprived of his employment as he still remains principal of the day school and is still in the employment of the school authorities. It is the deprivation of employment which creates the right to a preference, and not a mere reduction in its scope and extent. *Matter of Cusack v. Bd. of Education*, 89 App. Div. 355; 85 N. Y. Supp. 991.

Temporary service. The mere fact that a school teacher temporarily performs the duties of a higher grade than that to which she is appointed, until it is finally filled by another appointment, does not *ipso facto* entitle her to the higher grade or to the salary attached thereto. *Hoefling v. Board of Education*, 120 App. Div. 545; 104 N. Y. Supp. 941.

One designated to act temporarily as head of department is not appointed to the latter position nor entitled to the salary thereof. *Hazen v. Board of Education*, 127 App. Div. 235; 111 N. Y. Supp. 337; *Gormley v. Board of Education*, 129 N. Y. Supp. 153.

Appointment without necessary qualification. An attempted appointment to the position of vice principal of a school is invalid where the appointee does not hold the license prescribed by the city superintendent of schools. *Gormley v. Board of Education*, 129 N. Y. Supp. 153.

Holder of teacher's license issued by former city of Brooklyn. The board of education has no power to provide that the holder of a grade "A" teachers license issued by the former city of Brooklyn shall not be eligible for promotion to any grade in the last two years of the elementary school course unless he pass certain examinations and possess certain qualifications. The duty imposed upon the school authorities of placing the names of holders of grade "A" licenses upon the special list of those eligible for promotion is neither judicial nor discretionary, but is ministerial and a writ of mandamus will issue to compel its performance. The right of holders of such licenses to have their names placed on the list for promotion is not affected by the fact that their percentage ratings have been lost, as their names may be arranged on the list in the order in which their licenses were issued. *Matter of Brooklyn Teachers' Assn.*, 85 App. Div. 47; 83 N. Y. Supp. 1; *aff'd* 176 N. Y. 564.

Board of education; power to fix salaries; method, regulating

§ 1091 The board of education shall have power to adopt by-laws fixing the salaries of all members of the supervising and the teaching staff; and the salaries of all principals and teachers shall be regulated by merit, grade of class taught, length of service, experience in teaching, or by a combination of these considerations. Such by-laws shall establish a uniform schedule of salaries for the supervising and the teaching staff throughout all boroughs.

The salaries of the members of the supervising and teaching staffs shall be as follows:

The salary, including the annual increment, to which a present member is entitled under a specific salary schedule now existing shall not be reduced, nor shall any position in the elementary schools to which any member of the supervising or teaching staff was eligible on December 31, 1911, be abolished by the operation of this act. Beginning with the 1st day of January, 1912, third month following the taking effect of this act, the salaries, including the annual increments, of all members shall be not less than those fixed in the schedules and schedule conditions approved by the board of education on the 17th and 24th days of May, 1911. After said date, if a present male member be advanced to a position higher in rank, his salary including the annual increment, in the advanced position shall be not less than the compensation provided by statute for the position on the 1st day of July, 1911, nor less than that received by him immediately prior to such advance.

The salary and annual increment of any male person, who was, on December 31, 1911, on an eligible list for license number one, or who was, on that date, serving as a pupil teacher in the fourth term work of any training school for teachers in said city, or who was, on that date, a student in any such training school, and who was appointed, after said date, from an eligible list for license number one, or who, as a regularly matriculated student in any college located in the city of New York and recognized by the Regents of the University of the State of New York, had, prior to said date, completed or entered upon a regularly prescribed course approved by the State Commissioner of Education, in the department of education in such college, and who was appointed, after said date, from an eligible list for license number one, or who had resigned from the teaching force of the public school system of the city of New York, prior to December 31, 1911, and was, after said date, reappointed from an eligible list for license number one, shall be not less than the compensation provided by statute for the position on the first day of July, 1911.

The salary of a principal, assistant to principal, head of a department or male teacher in the grades of the seventh and eighth years appointed to teach in elementary schools prior to January 1, 1912, shall be not less than that now fixed for any regular teacher in the elementary schools. In the schedules of salaries hereafter adopted there shall be no discrimination based on the sex of the member, except as hereinbefore provided. A copy of such schedules and schedule conditions approved by the board of education on the 17th and 24th days of May, 1911, certified by the secretary of the board, shall, within thirty days hereafter, be filed in the office of the Secretary of State.

The board of examiners shall issue to a principal or a teacher who has had experience in schools other than the schools in the city of New York, a certificate stating that the experience of such teacher is equivalent to a certain number of years of experience in the schools of the said city. The board of examiners shall issue to a principal or teacher who has had experience in schools other than the high and training schools of the city of New York, a certificate stating that the experience of such teacher is equivalent to a certain number of years of experience

in the high and training schools of the said city. Such certificates made by the board of examiners shall be final and conclusive on all matters pertaining to experience therein stated, and shall entitle their holders to salaries in accordance with the schedules of salaries established in conformity with this section, in like manner as though the years mentioned in such certificates had been served in those schools of the city of New York that are respectively mentioned in such certificates. (*As amended by L. 1911, ch. 902; L. 1912, ch. 459; L. 1913, chs. 534, 838; L. 1914, ch. 264.*)

The scheme of compensation to teachers in the school system beginning with the creation of the greater city has been on a basis of progression, regulated by length of service and by experience in teaching. *Holmes v. Board of Education*, 120 N. Y. Supp. 284.

Claims for withheld salaries by high school teachers are liquidated claims; and interest on the same may be recovered from the time the claims accrued. *Holmes v. Board of Education*, 120 N. Y. Supp. 284.

Annual increment. The provision authorizing the board of education to fix a uniform schedule of salaries, was intended to bring about uniformity of salaries immediately, or so soon as it can be accomplished without reducing salaries. Hence, when the board adopts a schedule fixing the minimum and maximum salaries of women principals of a certain grade with provision for an annual increase until a maximum is reached, a principal in that grade whose salary, at the time of the adoption of the schedule, exceeded the minimum was not entitled to the annual increase until the salaries of other principals of the same grade equal hers by the yearly increase adopted. *McHench v. Board of Education*, 127 App. Div. 294; 111 N. Y. Supp. 303.

The spirit of the section requires that existing salaries, when above the minimum required by the schedule adopted, should be continued until the end of the school year and that the individual be then placed under the proper schedule, provided his salary be not reduced in so doing. *Loewy v. Board of Education*, 59 Misc. 70; 112 N. Y. Supp. 4.

Experience in schools other than high and training schools of city. The action of the board of examiners in refusing the relator a certificate that her prior experience is equivalent to any experience in the high and training schools is not judicial or quasi-judicial, where it does not appear that any testimony was taken by the board, or that the action of the board was the result of conflicting claims urged by adversaries, or the finding of fact based on the presentation of conflicting evidence; but such action was rather a decision based on the exercise of discretion and judgment peculiar to the members of the board. Hence a common-law writ of certiorari will not issue to review the action of the board, such writ issuing only to review decisions of inferior judicial or quasi-judicial tribunals. *People ex rel. McNulty v. Maxwell*, 123 App. Div. 591; 1108 N. Y. Supp. 49.

Reduction of salary. A school principal has no vested right in her salary. Her relation with the board of education is contractual, and her contractual right is affected by the statute which gives the board power to make by-laws fixing salaries. So the board may reduce the salary she is receiving, though not below the minimum established by statute. *Buckbee v. Board of Education*, 115 App. Div. 366; 100 N. Y. Supp. 943, rev'g 51 Misc. 295; 100 N. Y. Supp. 1063.

Temporary service. The mere fact that a school teacher temporarily performs the duties of a higher grade than that to which she is appointed, until it is finally filled by another appointment, does not *ipso facto* entitle her to the higher grade or to the salary attached thereto. *Hoeffling v. Board of Education*, 120 App. Div. 545; 104 N. Y. Supp. 941; *Hazen v. Board of Education*, 127 App. Div. 235; 111 N. Y. Supp. 337; *Thomas v. Board of Education*, 201 N. Y. 457, aff'g 136 App. Div. 721; 121 N. Y. Supp. 491; *Wood v. Board of Education*, 59 Misc. 605; 112 N. Y. Supp. 578.

A teacher in an evening school is not a public officer nor is his salary a compensation

within the meaning of this section and is not governed thereby; in the absence of special agreement, the by-laws of the board as to the compensation of such a teacher must be deemed a part of his contract of employment, and his salary may be reduced in accordance therewith. *Morris v. Board of Education*, 54 Misc. 605; 104 N. Y. Supp. 979; *aff'd* 124 App. Div. 921.

The salary of a janitor of a public school is fixed by the board of aldermen. The charter gives that board, upon recommendation of the board of estimate and apportionment, the power to fix all salaries paid out of the city treasury, with certain exceptions, and there is no authority given the board of education to fix the salaries of janitors of schools though the power to appoint them is specially delegated to the latter board by section 1074 of the charter. *People ex rel. Ajas v. Board of Education*, 104 App. Div. 162; 93 N. Y. Supp. 300; *Farrell v. Board of Education*, 113 App. Div. 405; 98 N. Y. Supp. 1046; *Lester v. Board of Education*, 119 N. Y. Supp. 887.

The salary of a janitor is regulated by the revised charter of the city of New York and is not within the scope of the provisions of the labor law which provide that laborers on public works be paid the prevailing rate of wages paid to laborers not engaged upon public works. So a janitor can not recover in excess of the wages he receives on the theory that other janitors are paid higher wages. *Farrell v. Board of Education*, 113 App. Div. 405; 98 N. Y. Supp. 1046.

The salary of a statistician in the employ of the department of education in the city of New York is to be fixed by the board of aldermen to the exclusion of the board of education. He is neither a member of the supervising or the teaching staff. *Hogan v. Board of Education*, 200 N. Y. 370, *aff'g* 137 App. Div. 255; 127 N. Y. Supp. 924.

A by-law adopted by the school board of Brooklyn construed with this section as amended. *Holmes v. Board of Education*, 120 N. Y. Supp. 284.

Public school teachers retirement fund

§ 1092 The general care and management of the public school teachers retirement fund created for the former city of New York by chapter 296 of the Laws of 1894, and of the public school teachers retirement fund created for the former city of Brooklyn, by chapter 656 of the Laws of 1895, is hereby given to the board of education, and the said funds are hereby made parts of the retirement fund of the board of education of the city of New York created by this act. The board of education shall from time to time, establish such rules and regulations for the administration of said fund as it may deem best, which rules and regulations shall preserve all rights inhering in the teachers of the city of New York and the city of Brooklyn as constituted prior to the passage of this act; and said board shall make payments from said fund of annuities granted in pursuance of this act. The comptroller of the city of New York shall hold and invest all money belonging to said fund, and by direction of said board of education shall pay out the same; and he shall report in detail to the board of education of the city of New York, annually, in the month of January, the condition of said fund and the items of the receipts and disbursements on account of the same. The said retirement fund shall consist of the following, with the interest and income thereof: (1) All money, pay, compensation or salary, or any income thereof forfeited, deducted, reserved, or withheld for any cause from any member or members of the teaching or supervising staff of the public day schools of the city of New York or of the normal college and training department of the Normal College of the City

of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction, in pursuance of rules established or to be established by the board of education, or by the board of trustees of the Normal College of the City of New York, or by the commissioner of public charities, or by the commissioner of correction for schools or classes maintained by such commissioners respectively. The auditor of the board of education, the auditor of the board of trustees of the normal college, the commissioner of public charities, and the commissioner of correction shall certify monthly to the comptroller the amounts so forfeited, deducted, reserved or withheld during the preceding month. Said amounts shall be turned into the said retirement fund. (2) All moneys received from donations, legacies, gifts, bequests, or otherwise for or on account of said fund. (3) Five per centum annually of all excise moneys or license fees belonging to the city of New York, and derived or received by any commissioner of excise or public officer from the granting of licenses or premission to sell strong or spirituous liquors, ale, wine, or beer in the city of New York, under the provisions of any law of this State authorizing the granting of such license or permission. (4) One per centum of the salaries of all members of the teaching and supervising staff of the public day schools of the city of New York, and of the normal college and training department of the Normal College of the City of New York, and of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction of the city of New York, except that the amount deducted from the salary of any teacher or principal of the public day schools of the city of New York or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction of the city of New York, in this manner, shall not exceed thirty dollars in any one year, and the amount deducted from the salary of any supervising official, in this manner, shall not exceed forty dollars in any one year. And the board of education, the board of trustees of the normal college, the commissioner of public charities, and the commissioner of correction shall, after the passage of this act, deduct on each and every pay roll of the said teaching and supervising staff said one per centum from each and every amount earnable in the period covered by the said pay roll, notwithstanding the minimum salaries provided for by section 1091 of the charter shall be thereby reduced, and shall certify monthly to the comptroller, the amounts so deducted; and said amounts shall be turned into the said retirement fund. All deductions made under the provisions of this clause from the salary of any person who may be dismissed from the service for cause, before said person shall have become eligible for retirement, under the provisions of this act, shall be refunded to said person upon such dismissal. (5) All such other methods of increment as may be duly and legally devised for the increase of said fund. The moneys standing to the credit of the retirement fund on the 31st of December, 1904, after subtracting therefrom any amounts forfeited, deducted, reserved or withheld from salaries for absences prior to that date, which may, on excuse of absence, be refunded after that date, all excise moneys of 1904 which may have

been credited to said fund on or before that date, and all interest for 1904 on said fund, which may have been credited to said fund on or before said date, shall be set apart by the comptroller as a permanent fund. The unexpended balances of the income of the teachers retirement fund for the year 1905, and for all subsequent years shall be added to the said permanent fund. The comptroller shall invest the said permanent fund, and the income thereof may be used for the payment of annuities, but if necessary, in order to carry out the provisions of this act, the board of education may use any portion of the permanent fund in excess of eight hundred thousand dollars in the same manner as the income thereof. The president of the board of education, the chairman of the committee on elementary schools of said board, the chairman of the committee on high schools of said board, the city superintendent of schools, and three members to be selected from the principals, assistants to principals and teachers of the public day schools shall constitute a board of retirement. The three last named members shall be chosen as follows: On the second Thursday of May in each year the principals, assistants to principals and teachers in each district shall meet at the call of the district superintendent, which call he shall issue at least one week before said meeting, and at a place within the district designated by him, to select by ballot one of their number as district representative to serve for one year. At the close of said meeting, the presiding officer shall transmit to the secretary of the board of education the name and address of the district representative so chosen. The district representatives shall meet at four o'clock in the afternoon on the third Thursday of May at the hall of the board of education and choose by ballot one of their number to serve on the board of retirement for three years from the 1st day of the following June. At the first meeting of the district representatives after this law takes effect, they shall choose by ballot three of their number to serve on the board of retirement, and the three so chosen shall by lot fix and determine their terms of office as one, two, and three years respectively. Should a vacancy occur among the members of the board of retirement so chosen, the district representatives shall meet and choose by ballot one of their number to serve on the board of retirement for the unexpired term. On the recommendation of the board of retirement, said board of education shall have power, by a two-thirds vote of all its members, to retire any member of the teaching or supervising staff of the public day schools of the city of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction who is mentally or physically incapacitated for the performance of duty, and who has been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses, or any two or more of the several kinds of work, for a period aggregating twenty years, fifteen of which shall have been in the public day schools in the city of New York, or in schools or classes maintained in institutions controlled by the department of public charities or by the department of correction. And the board of education may retire from active service any member of the said teaching or supervising staff who shall have attained the age of sixty-five years and shall have

been engaged in the work of teaching or school supervision for a period aggregating thirty years. On the recommendation of the board of retirement, the board of education shall have power, by a two-thirds vote of all its members, to retire upon his or her own application any member of the teaching or supervising staff of the public day schools of the city of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction who has been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses, or any two or more of these several kinds of work, for a period aggregating thirty years, fifteen of which shall have been in any of the said institutions. The said board of education shall also have power, by a two-thirds vote of all its members, and after recommendations to that effect shall have been made by the board of trustees of the normal college stating that the member of the supervising or teaching force is mentally or physically incapacitated for the performance of duty, to retire any member of the teaching or supervising force of the normal college or of the training department of the normal college who shall have been engaged in said normal college or training department or elsewhere in the public school system of the city of New York for ten years and shall have been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses, or any two or more of said several kinds of work, during a period aggregating twenty years. The said board of education, upon the recommendation of the trustees of the normal college may also, in its discretion retire any member of the teaching or supervising force upon his or her own application who shall have been engaged in the work of teaching or school or college supervision or examination of teachers for licenses, or any two or more such occupations, for a period aggregating thirty years. Upon such retirement, whether voluntary or otherwise, the person retired shall be entitled to receive an annuity out of the teachers retirement fund of not less than one-half of the annual salary paid to such person at the period of retirement, and in case of the president or of a professor to such an additional sum per annum as will increase such one-half of the salary previously paid if not an even multiple of one thousand dollars to an even multiple of one thousand dollars. Any person retired under the provisions of this act after thirty years of service, except as hereinbefore in this section provided in the case of the president or of a professor of the normal college, shall receive as an annuity one-half of the annual salary paid to said person at the date of said retirement, not to exceed, however, in the case of a teacher or principal, the sum of fifteen hundred dollars per annum, and in the case of a supervising official, two thousand dollars per annum. And in no case shall the annuity of any person already retired or hereafter to be retired after thirty years of service, be less than six hundred dollars. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. The annuities provided for by this act shall be payable in monthly instalments.

All retirements made under the provisions of this act shall take effect either on the 1st day of February or on the 1st day of September. The number of persons retired in any one year shall be so limited that the entire amount of the annuities to be paid for that year shall not be in excess of the estimated amount of the retirement fund applicable to the payment of annuities for that year. The words "teaching and supervising staff of the public day schools of the city of New York," as used in this section, shall include the city superintendent of schools, the associate city superintendents, the district superintendents, the director and assistant director of the division of reference and research, the members of the board of examiners, directors and assistant directors of special branches, the supervisor and assistant supervisor of lectures, all principals, vice principals, assistants to principals, heads of departments, and all regular and special teachers of the public day schools of the city of New York. Nothing in this act shall be construed as prohibiting the reappointment to active service, on his or her own application, of any person who has been retired under the provisions of this act. Upon the reappointment of any such person the payment of the annuity of said person shall be discontinued. Teachers hereafter appointed in schools or classes maintained in the institutions controlled by the department of public charities or by the department of correction, shall be appointed by the commissioner of the appropriate department upon the nomination of the city superintendent of schools and shall be licensed by the board of examiners of the department of education. The department of education through such representatives as it may designate shall maintain an effective visitation and inspection of all such schools and classes. (*As amended by L. 1902, ch. 640; L. 1903, ch. 177; L. 1905, ch. 661; L. 1907, ch. 167; L. 1914, ch. 476.*)

Acceptance by a teacher of a less sum for wages, and subsequently for pension, than is due her under the statute, does not act as a waiver for the balance due, even though she receipt for the same. Her right to the statutory compensation and pension does not rest upon contract. It is not necessary to recover the balance to resort to mandamus to compel her reinstatement. *Moore v. Board of Education*, 121 App. Div. 862; 106 N. Y. Supp. 983; *aff'd* 195 N. Y. 601.

Persons who retired from service before the establishment of the pension system may by no act of the Legislature be made entitled to annuities hereunder. Such an act is unconstitutional as giving a gratuity or extra compensation to a public servant. *Matter of Mahon v. Bd. of Education*, 171 N. Y. 263, *aff'g* 68 App. Div. 154; 74 N. Y. Supp. 172.

§ 1092a The moneys, securities and effects of the public school teachers retirement fund, and all pensions or annuities granted and payable from said fund, shall be and are exempt from levy and sale by virtue of an execution and from all process and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claims against, or debt or liability of, any pensioner or annuitant of said fund. (*As added by L. 1905, ch. 107.*)

§ 1092b On the recommendation of the board of retirement, the board of education shall have power, in its discretion, to authorize the expenditure from the public school teachers retirement fund of a sum not exceeding fifteen hundred dollars in any one year for clerical and other expenses in connection with the

administration of said fund, payments therefrom to be made on vouchers prepared and audited in the same manner as payments from other funds under the jurisdiction of the board of education. (*As added by L. 1909, ch. 505.*)

Charges against principal and teachers and others; proceedings thereon

§ 1093 A local school board or any member thereof, the city superintendent, an associate city superintendent or a district superintendent, may prefer charges to the board of education against a principal, a branch principal, a director, a head of department, or any other officer exercising supervising powers in the schools under their charge, or against a teacher in any of the schools under their charge, for gross misconduct, insubordination, neglect of duty or general inefficiency. Pending trial, the board of education may suspend said principal or teacher or other officer, with or without pay, and appoint a substitute in his place. In accordance with by-laws to be passed by the board of education, a district superintendent shall have the like power to suspend a teacher in a school within his district, and shall forthwith report such suspension to the city superintendent, who shall immediately report it to the board of education. Pending action by the board of education, the city superintendent may appoint a substitute in the place of any teacher so suspended. The board of education, on receiving notice of such charges, shall cause a copy thereof to be served upon the person against whom they have been made either personally or, if personal service can not be made after reasonable effort, by leaving a copy thereof at his last known place of residence and by sending him a copy thereof through the mails addressed to him at his last known place of residence, returnable in not less than ten days from the date of such service, and in no case returnable during the months of July and August, and the board of education shall then immediately proceed to try and determine the case, either in the board or by a committee of its body, and shall fix the penalty or punishment, if any, to be imposed for the offense, and such penalty or punishment shall consist of a fine, suspension for a fixed time without pay, or dismissal; provided, however, that a vote of a majority of all the members of the board of education shall be necessary to impose the penalty of dismissal. The report of any committee holding such trial shall be subject to final action by the board, which may reject, confirm or modify the conclusions of the committee, and the decision of the board shall be final, except as to matters in relation to which, under the general school laws of the State, an appeal may be taken to the State Superintendent of Public Instruction. In case the principal or other officer or teacher is acquitted, he shall be restored to his position with full pay for the period of suspension. In all trials authorized by this chapter all testimony taken shall be under oath, which the president of the board of education, chairman of a local school board or chairman of the committee conducting the trial is hereby authorized to administer, and the Supreme Court shall have power, upon the application of such president or chairman, to compel any witness who may be summoned, to appear and testify before said board of education, local school board or committee. (*As amended by L. 1913, ch. 688.*)

Annual report to State Superintendent of Public Instruction

§ 1094 The board of education shall, between the 1st day of August and 30th day of September in each year, make and transmit to the State Superintendent of Public Instruction a report in writing for the State school year ending on the next preceding 31st day of July, which report shall be in such form and shall state such facts as the State Superintendent and the school laws of the State shall require.

Annual report to mayor; other reports to mayor

§ 1095 The board of education shall, between the 1st day of August and the 30th day of November in each year, make and transmit to the mayor of the city of New York a report in writing, for the year ending on the 31st day of July next preceding, stating the whole number of schools under its jurisdiction during the said year, ending on the 31st day of July; the number of teachers; the total number of pupils on register, and the average attendance at each school; the number of high schools and training schools for teachers, with the number of teachers and the attendance of pupils at each; the corporate schools or societies from which reports have been made, as elsewhere prescribed in this act, the length of time such schools have been kept open, and the number of teachers and of pupils taught in each such school. The board of education shall also between the 1st day of January and the 15th day of February in each year make and transmit to the mayor of the city of New York, another report bearing date the 31st day of December next preceding, stating the total amount of money expended for the purposes of public education in said city during the year ending on said 31st day of December. The board of education shall also make in said reports such suggestions and recommendations relative to the public schools of the city of New York as it may deem proper.

Removals by mayor after hearing for neglect or misconduct

§ 1096 Any member of the board of education, or of a local school board, may be removed by the mayor of said city, upon proof either of official misconduct in office or negligence of official duties, or of conduct in any manner connected with his official duties, or otherwise, which tends to discredit his office, or the school system, or for mental or physical inability to perform his duties, but before such removal of said member he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor, and to the assistance of counsel on said hearing.

The board of education to cause accounts and records to be made and kept

§ 1097 The board of education shall provide the proper book or books, in form as required by its by-laws, and shall cause the class teachers under the direction and supervision of the principal to enter the names, ages and residences of the scholars attending the school, the name of the parent or guardian of each pupil and the days on which the scholars shall have attended respectively, and

the aggregate attendance of each scholar during the year, and also the day upon which the school shall have been visited by the city superintendent or by an associate city superintendent or by the direct superintendent, or by members of the board of education, or by members of the local school board, or by any of them, which entry shall be verified by such oath or affirmation of the principal as may be prescribed by the board of education. These books shall be preserved as the property of the board of education and shall at all times be open to inspection by members of the board of education, by members of the local school boards and by the city superintendent, or by any associate city superintendent, or by the district superintendents.

School officers not to be interested in contracts; removal of

§ 1098 The board of education shall have power to remove from office any school officer who shall have been directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received, from any source whatever, any commission or compensation in connection with any of the matters aforesaid; and any school officer who shall violate the preceding provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars or imprisonment in the city prison not exceeding one year, or both, and shall also be ineligible to any school office. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

Contributions to political funds, etc., prohibited

§ 1099 Neither the city superintendent of schools, nor any associate or district superintendent of schools, nor any member of the board of examiners, nor any member of the supervising or teaching staff of the department of education of the city of New York, shall be permitted to contribute any moneys, directly or indirectly, to any fund intended to affect legislation increasing their emoluments.

Powers of investigation

§ 1100 The board of education may investigate of its own motion or otherwise, either in the board or by a committee of its own body, any subject of which it has cognizance or over which it has legal control, including the conduct of any of its members or employees or those of any local school board; and for the purpose of such investigation, such board or its president, or committee and its chairman, shall have and may exercise all the powers which the board of education has or may exercise in the case of a trial under section 1093 of this act. Any action or determination of a committee appointed under the provisions of this section shall be subject to approval or reversal by the board, which may

also modify the determination of the committee in such a way as the board shall deem proper and just, and the judgment of the board thereon shall be final.

A janitor of a public school is an employee of the board of education within the meaning of this section which confers upon the defendant the same powers in dealing with such employees as it possesses in the case of a trial of a teacher or principal under section 1093. The board is within its statutory powers in imposing a fine upon such janitor as a punishment for delinquency. *Farrell v. Board of Education*, 67 Misc. 187; 122 N. Y. Supp. 289; *Egan v. Board of Education of New York*, 70 Misc. 518.

Judgment by the board is final and can not be attacked collaterally in an action to recover the amount of a fine withheld from an employee's salary. The plaintiff's sole remedy is by certiorari to review the proceedings of the board. *Egan v. Board of Education of New York*, 70 Misc. 518.

Determination by committee. Where in the trial of a janitor for violation of a rule of the board, the board of education avails itself of the provision allowing it to act by committee, it merely intends to distribute the work and to avoid the consideration of charges for trifling offenses. It reserves charges for more serious infractions for itself. This does not mean that the board does or can divest itself of the power conferred by statute. *Egan v. Board of Education of New York*, 70 Misc. 518.

Continuation in office of all employees under the public school system

§ 1101 Except as herein otherwise provided, the city superintendent, the members of the board of examiners, the supervisors, the directors, and all principals, teachers and other members of the educational staff in the public school system of any part of the city of New York, and all school officers or other employees appointed by the board of education before this act takes effect, including the secretary of the board, the city superintendent of schools, the superintendent of school buildings, the superintendent of school supplies, the auditors, and all deputies, clerks and other employees in their respective offices shall continue to hold their respective positions and to be entitled to such compensation as is now provided or may hereafter be provided by the lawful authority subject to change of title, to reassignment or to removal for cause, as may be provided by law, and subject to the right of the said board to abolish unnecessary positions. The secretaries, clerical force and employees of the several borough school boards abolished by this act, including the supervisor of lectures for the boroughs of Manhattan and the Bronx, shall be assigned by the board of education, and the clerical force and the employees of the several borough superintendents and the boards of borough superintendents also abolished by this act shall be assigned by the board of superintendents, to positions and duties corresponding as nearly as may be to their respective positions and duties before this act takes effect without prejudice or advantage, provided, however, that nothing herein contained shall be construed to repeal, limit, modify or abridge any provisions of law or civil service regulations relative to the removal of subordinates by public officers or heads of departments, or to affect the right of adding to the duties or reducing the salary of any secretary, clerk or employee and abolishing unnecessary positions. All licenses to teach or certificates of qualifications for teaching granted by the superintendent of public instruction of the city of Brooklyn, or by authority of the board of education of the said

city of Brooklyn, prior to February 1, 1898, or recognized by the board of education of the said city of Brooklyn or the State Superintendent of Public Instruction as in force at that date in said city, shall, unless revoked for cause by the State Superintendent of Public Instruction, be recognized by the city superintendent of schools and the board of examiners of the city of New York, as in full force, and shall entitle the holders to appointment or promotion to any position to which they were respectively eligible by the possession of such licenses or certificates. All persons heretofore transferred under the provisions of this chapter as originally enacted to the service of the consolidated city who hold offices for definite terms, shall be deemed to have been transferred for the remainder of their respective terms only.

Right of action. A duly licensed teacher under contract with the school authorities is not an officer, but an employee. His employment is contractual, and his proper remedy for wrongful removal is by action. Mandamus will not lie as of strict right, and may be refused in the discretion of the court, and the former denial of that remedy will not bar an action. *Steinson v. Bd. of Education of N. Y.*, 165 N. Y. 431, aff'g 49 App. Div. 143, 63 N. Y. Supp. 128.

A claim for salary during wrongful removal is a liquidated one and plaintiff is entitled to interest thereon. *Shaul v. Board of Education*, 108 App. Div. 19; 95 N. Y. Supp. 479.

Action for balance of salary. The proper remedy where a teacher claims to be entitled to more salary than he is receiving is by an action at law. A writ of mandamus to compel payment will not issue. *People ex rel. Dutton v. Maxwell*, 137 App. Div. 737; 122 N. Y. Supp. 637; *Moore v. Board of Education*, 121 App. Div. 862; 106 N. Y. Supp. 983.

Reinstatement after a wrongful removal must be sought in a direct proceeding for that purpose; the question can not be tried in an action for salary. *Thomson v. Board of Education*, 201 N. Y. 457, aff'g 136 App. Div. 721; 121 N. Y. Supp. 491.

Waiver of right of compensation. Since the right is a statutory one, and does not rest upon contract, by accepting and receipting for a lower salary than that to which she is entitled, she does not waive her right to the higher rate. *Moore v. Board of Education*, 121 App. Div. 862; 106 N. Y. Supp. 983.

In this connection read the following section of the Greater New York Charter:

§ 149. . . Every official, employee or person who shall sign the receipt upon such payroll as having received the amount therein mentioned in full payment for services rendered by him for the entire time specified in such payroll, shall be deemed to have made an accord and satisfaction of all claims against the city for wages or salary due to such person from the city of New York for the period covered by such payroll, unless at the time of signing such payroll the person receiving such wages or salary shall write legibly thereon in connection with his receipt, that the amount received is received under protest, and unless such protest is so written upon such payroll no recovery shall be had against the city of New York upon any further claim for wages or salaries for the period of time covered by such payroll.

A teacher who voluntarily stipulates to accept a less salary than provided by statute is bound by her stipulation. *Brown v. Board of Education*, 70 Misc. 399; 128 N. Y. Supp. 16.

There is nothing in the policy of the law to prevent a teacher voluntarily waiving her right to a higher salary. *Sarecky v. Board of Education*, 67 Misc. 294; 124 N. Y. Supp. 903; *Du Moulin v. Board of Education*, 124 N. Y. Supp. 901.

Waiver of right to position as principal. Although under the present statute the principal of a school can be removed or reassigned only as provided by the statute, she may nevertheless waive her right to a position as principal by demanding and drawing her pay and receipting in full for the same after a reassignment to a lower position, especially where she has acquiesced in such reassignment for seven and one-half years. Her actions

must be deemed in law a waiver of any right to claim a salary attaching to some other position. *Sheehan v. Board of Education*, 120 App. Div. 557; 104 N. Y. Supp. 1002.

This section operates to protect permanently teachers in the tenure of their positions whether appointed before or after the passage of the charter, unless discharged or reduced to a lower position for cause. *Moore v. Board of Education*, 121 App. Div. 862; 106 N. Y. Supp. 983.

The intent of the protection afforded is to get the best work from all teachers by assuring them of safety and protection, without resort to outside influence, so long as they maintain a high standard of conduct and efficiency. *People ex rel. Callahan v. Bd. Education*, 174 N. Y. 169, aff'g 78 App. Div. 501; 79 N. Y. Supp. 624.

Prospective effect. The section applies not only to teachers appointed prior to its enactment but also was intended to have a prospective effect. It is unreasonable to believe that the Legislature intended to protect a part of the teachers only and to leave others of the same class unprotected, simply because they were appointed at a later period. Two kinds of tenure for teachers applicable to the same position, in the same city, but founded upon no substantial distinction, would be an anomaly. *People ex rel. Callahan v. Bd. Education*, 174 N. Y. 169, aff'g 78 App. Div. 501; 79 N. Y. Supp. 624.

The word reassignment as used in this section in close connection with the word removal, and with no comma intervening, means something more than the simple transfer from one school to another without affecting the grade. It is practically a removal from a higher position to a lower, and can not be made except for cause. A teacher can not be reassigned to a lower grade at a reduced salary except after a trial upon charges. *People ex rel. Callahan v. Bd. Education*, 174 N. Y. 169, aff'g 78 App. Div. 501; 79 N. Y. Supp. 624.

The right to abolish unnecessary positions being conferred upon the board, it is within its power to remove the principal of a night school on the establishment of such schools for males and females separately and the appointment of female principals for the schools for females. *Matter of Cusack v. Bd. of Education*, 174 N. Y. 136, rev'g 78 App. Div. 470; 79 N. Y. Supp. 803.

Acceptance of another position, namely, principal of an evening elementary school, after being illegally removed as principal of an evening high school, will not defeat plaintiff's right to bring an action against such illegal removal. *Matter of O'Leary v. Board of Education*, 78 App. Div. 475; 79 N. Y. Supp. 806; aff'd 174 N. Y. 511.

A by-law of the board of education of the borough of Brooklyn providing for the termination of the employment of a teacher upon her marriage is void as contravening the exclusive method of termination of such employment provided by this section. *People ex rel. Murphy v. Maxwell*, 177 N. Y. 494, rev'g 87 App. Div. 131; 83 N. Y. Supp. 1098.

Resignation of a teacher upon her marriage was not made under duress although in accordance with a by-law of the board of education which has since been declared invalid by the courts. Voluntary obedience to such regulations, whether lawful or otherwise, can not be regarded as duress in a legal sense. The wait of two years after the decision of the Court of Appeals declaring the by-law invalid for instituting this proceeding would alone be grounds for denying this application for laches. *Matter of Grendon*, 114 App. Div. 759; 100 N. Y. Supp. 253.

Discrimination between males and females. The rights of a female teacher holding a grade "A" license issued by the city of Brooklyn prior to 1898, are not impaired by making separate eligible lists for male and female teachers, nor by the appointment of a male teacher of a lower relative standing to a position which, in the exercise of a reasonable discretion, the board determined should be filled by a man. *Fitzpatrick v. Board of Education*, 67 Misc. 564; 124 N. Y. Supp. 765.

The holder of a license issued by the former city of Brooklyn is expressly made entitled to the protection here afforded and is eligible to promotion without discrimination. *Matter of Brooklyn Teachers Assn.*, 85 App. Div. 47; 83 N. Y. Supp. 1; aff'd 176 N. Y. 564.

A teacher employed in the city of Brooklyn for a definite term was continued in the

same position by the Greater New York charter not merely for the remainder of the term for which he was employed, but like all other teachers in the new city, for an indefinite term of employment, that is, until removed for cause. *Bogert v. Board of Education*, 106 App. Div. 56; 94 N. Y. Supp. 180, aff'g 44 Misc. 10; 89 N. Y. Supp. 737.

A grade "A" license of the city of Brooklyn before the consolidation does not entitle the holder to an appointment as head of a department in Greater New York. *Hazen v. Board of Education*, 127 App. Div. 235; 111 N. Y. Supp. 337.

Teacher in village of Flushing. The provisions of this section making the positions of teachers permanent are not applicable to a teacher in the village of Flushing whose license was for a period expiring within the current year, except for a period limited by the expiration of his license. *Wood v. Board of Education*, 59 Misc. 605; 112 N. Y. Supp. 578.

The salary of an architectural draughtsman in the bureau of buildings in the board of education may be reduced. *Sauerbrunn v. Board of Education*, 150 App. Div. 407; 135 N. Y. Supp. 85.

School money appropriation by the State to the public schools of the city

§ 1102 Whenever the city clerk shall receive notice from the State Superintendent of Public Instruction of the amount of moneys apportioned to the city of New York for the support and encouragement of common schools therein, he shall immediately lay the same before the board of aldermen of said city; and the chamberlain of the said city shall apply for and receive the school moneys apportioned to the said city as soon as the same become payable, and place the same in the city treasury, to the credit of the general fund for the reduction of taxation.

TITLE 2

THE COLLEGE OF THE CITY OF NEW YORK

To continue a separate corporation

Section 1127 The college of the city of New York shall continue to be a separate and distinct organization and body corporate, and as such shall have the powers and privileges of a college, pursuant to the revised statutes of this State, and be subject to the provisions of the said statute relative to colleges, and to the visitation of Regents of the University, in like manner with the other colleges of the State.

Corporate existence. The College of the City of New York, although a part of the educational system of the city, is a domestic corporation separate and distinct from the city. Hence the remedy of a real estate broker under contract with the trustees for acquisition of a site would be not against the city but against the college. *Fidelity & Deposit Co. v. City of New York*, 108 App. Div. 263; 95 N. Y. Supp. 752.

Trustees of the College of the City of New York; number, appointment

§ 1128 The board of trustees of said college on and after the 1st day of July, 1900, shall consist of nine residents of the city to be appointed as hereinafter provided, and of the president of the board of education of the city ex officio. Except as herein otherwise provided, the said board shall have and possess the powers conferred upon and be subject to the duties required of the trustees of

colleges by the education law. The mayor of the city of New York shall appoint before the 1st day of June, 1900, nine persons to serve as such trustees, to hold office respectively as shall be designated by the mayor, for one, two, three, four, five, six, seven, eight and nine years from the 1st day of July, 1900. On or before the 1st day of June prior to the expiration of the term of office of any trustee the mayor shall appoint his successor for a full term of nine years from the first day of July following. The mayor shall fill any vacancy existing in the office of trustee—other than the president of the board of education—by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the oath of office required by the constitution of the State. Any resignation from the office of trustee shall be made to the mayor. No trustee shall be subject to removal under the provisions of section 95 of this act, but any trustee may be removed by the mayor upon proof either of official misconduct or negligence of official duties, or of conduct in any manner connected with his official duties or otherwise which tends to discredit his office, or the school system, or for mental or physical inability to perform his duties, but before such removal he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor, and to the assistance of counsel on said hearing. The board of trustees shall have power to prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors and other employees, and to authorize a curator or a member of said board as they deem proper, to advertise for, receive and open any and all bids. Such by-laws shall include rules governing the appointment of all officers, members of the faculty, instructors and other employees of the college. A majority of the members of the board appointed by the mayor as aforesaid shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such act or resolution shall be adopted by a vote of five members of the board. The board of trustees of said college shall also have power to prescribe rules, regulations, charges and compensation, if any, for the use, and to prescribe the extent, purposes and manner of use, by persons, associations and corporations of the lands or buildings of said college or any part thereof, at such times as the same are not required for the uses of the college and of those attending thereat, and the board of trustees shall also have power to prescribe what fees or charges, if any, such persons, associations or corporations may exact for the attendance at or participation in the uses so permitted. All moneys, if any, so received by said college shall, within ten days after being received, be duly accounted for and paid by said college to the comptroller of the city of New York and shall be by him credited to a special fund for the exclusive benefit and use of the athletic council and other organizations of said college, except as hereinafter provided, and any moneys in said fund when duly appropriated by the board of estimate and apportionment of the city of New York and thereafter by the board of trustees of said college, shall be available for carrying out the powers, duties and functions of said athletic council and other organizations of said college and for no other purpose whatsoever.

Provided that any balance of said moneys received by said comptroller during any fiscal year that may remain in said special fund unappropriated by said board of estimate and apportionment a year after the expiration of each such fiscal year shall be, by said comptroller, when so directed by said board of estimate and apportionment, deposited to the credit of the general fund for the reduction of taxation. (*As amended by L. 1914, ch. 119; L. 1915, ch. 512.*)

The trustees have no right to divert funds appropriated for the college from the legitimate purposes; hence they may not allow the widow of a deceased teacher his salary for a period subsequent to his death. Such a payment is properly refused audit by the city authorities. *People ex rel. Burnet v. Jackson*, 85 N. Y. 541, rev'g 23 Hun 568.

Laws applicable

§ 1129 All acts of the Legislature which were in force on March 30, 1866, in regard to the free academy, and to its control, management, support and affairs, not since modified or repealed, and which are not inconsistent with the provisions of this act, and all laws in force at the time this act takes effect relative to the College of the City of New York not inconsistent with this act are hereby declared to be applicable to the said college.

Participation in State literature and other funds

§ 1130 The College of the City of New York shall be entitled to participate in the distribution of the income of the literature and other funds in the same manner and upon the same conditions as the other colleges of the State, and the Regents of The University of the State of New York shall pay annually to the comptroller of the city of New York, as trustees for said college, the distributive share of the said funds to which the said College of the City of New York shall, by law, be entitled, and which shall be applied and expended for library books for the said college.

College officials and professors' retirement fund

§ 1130a A retirement fund for the president, vice president, professors, assistant professors and instructors of the College of the City of New York is hereby created, and shall consist of one per centum annually or as much thereof as is necessary for the purpose of this act, of all excise moneys or license fees belonging to the city of New York as constituted by this act and derived or received in any current year by any commissioner of excise or public officer from the granting of licenses or permission to sell strong or spirituous liquors, ale, wine or beer, or of any moneys paid for taxes upon the business of trafficking in or selling or dealing in strong or spirituous liquors, ale, wine or beer, in the boroughs of Manhattan, Bronx, Brooklyn, Queens and Richmond under the provisions of any law of this State authorizing the granting of any such license or permission, the said one per centum or as much thereof as is necessary to be paid by the comptroller of said city, who is hereby authorized and required to

pay the same to the persons entitled to the said retirement fund as hereinafter prescribed, such sum to amount in each and every year to not more than one per centum on the excise fund belonging to said city, nor to exceed such amount as may be required to pay the full amount of annuities allowed. The comptroller of the city of New York shall by the direction and request of said board of trustees of said college pay out the same. The comptroller of the city of New York shall report in detail to the board of trustees of said college annually in the month of January the amounts paid out by him in the preceding year for account of said retirement fund. Said board of trustees shall have power, by a two-thirds vote of all its members, to retire any member of the supervising or teaching staff of said college, who shall have attained the age of sixty-five years, and shall have been engaged as a supervising officer, professor, assistant professor or instructor in said college for ten years, and has taught in some university, college, academy, educational institution or in the common schools of this or some other state in the United States for thirty years, and in the event of such retirement shall be entitled to the annuity hereinafter provided and any president, vice president, professor, assistant professor or instructor, who shall have served consecutively for twenty years in said college, or who is connected with said college and shall have served said college for ten years and taught or acted as supervising officer in some university, college, academy, educational institution or in the common schools of this or some other state in the United States for thirty years, shall, on his own application, be permitted to retire from the active service of said college, and upon such retirement, duly approved by a majority vote of the board of trustees of said college, shall be entitled to receive an annuity out of said retirement fund of not less than one-half the annual salary paid to him at the date of such retirement, and in case of the president an additional sum of one thousand dollars, in case of a vice president an additional sum of five hundred dollars, and should said annuity, in the case of a professor, be less than three thousand dollars, then the said board may, in its discretion, increase said annuity to not more than three thousand dollars. The said board shall have power by a two-thirds vote of all its members to appoint any supervising officer, professor, assistant professor or instructor who has been retired as hereinbefore provided, to active duty for a term of not more than one year in a position similar to that formerly held by him. Such supervising officer, professor, assistant professor or instructor so appointed to active duty shall be entitled to the annuity to be paid out of the retirement fund as hereinbefore provided and an additional sum to be paid out of funds in the hands of the board of trustees for the general expenses of the college, as compensation for his service, which additional sum shall be equal to the difference between the amount of the annuity received by him and the amount of his salary for the year immediately preceding his retirement, so that the total amount paid him shall equal his salary for the year immediately preceding his retirement. Any such appointment heretofore made by said board is hereby ratified and confirmed and such appointee is entitled to the annuity hereinbefore provided and an additional sum as above provided as compensation for his services. (*As added by L. 1902, ch. 604 and amended by L. 1903, ch. 438.*)

Duties of trustees to report

§ 1131 It shall be the duty of the trustees of said college, annually on or before the 1st day of September, to report to the board of estimate and apportionment such sum, not exceeding one hundred and seventy-five thousand dollars in any one year, as they may require for the payment of the salaries of the professors and officers of said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor; for repairing and altering the college buildings; and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment and the board of aldermen of the city of New York are hereby authorized and directed in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city, such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees; the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in the city of New York under the act entitled "An act to amend, consolidate and reduce to one act the several acts of the State of New York relative to the common schools of the city of New York," passed July 3, 1851, and the several acts amendatory thereto. Upon the recommendation of the trustees, the board of estimate and apportionment and the board of aldermen may increase, from time to time, the amount annually to be raised in the tax levy for the maintenance of the College of the City of New York.

Instruction to be furnished gratuitously and otherwise by the College of the City of New York; degrees and diplomas

§ 1132 The trustees of said college shall continue to furnish, through the College of the City of New York, the benefit of education, gratuitously, to boys who have been pupils in the common schools of the city, and to all other male students who are actual residents of said city, and who are qualified to pass the required examination for admission to said college. And the trustees, upon the recommendation of the faculty of the said college may grant the usual degrees and diplomas in the arts to such persons as shall have completed a full course of study in the said college. The trustees may also, upon such terms and conditions as to admission and attendance as they may prescribe, furnish gratuitously or otherwise, for male and female students actual residents or employees of said city, special courses and courses of study in vocational subjects and civic administration; and may grant certificates to such students as shall have completed the courses or studies so prescribed. All sums of money, if any, received by said college, as provided by this section, shall be accounted for and paid into the city treasury to the credit of the general fund, within sixty days after the expiration of each collegiate year. (*As amended by L. 1915, ch. 161.*)

Reports by trustees to be furnished

§ 1133 The trustees of the College of the City of New York shall make and transmit, annually, on or before the 1st day of February in each year, to the board of aldermen and also to the secretary of the Board of Regents of The

University of the State of New York a report, dated on the 31st day of December next preceding, which report shall state the names and ages of all the pupils instructed in such college during the preceding year, and the time that each was so instructed, specifying which of them have completed a full course of study therein, and which have received degrees, medals, and other special testimonials, a particular statement of the studies pursued by each pupil since the last preceding report, together with the books such student shall have studied, in whole or in part, and if in part, what portion; an account or estimate of the library, philosophical and chemical apparatus, and mathematical or other scientific instruments belonging to such college; the names of the instructors employed in said college, and the compensation paid to each; what amount of money the board of education received during the year for the purposes of such college, and from what sources, specifying how much from each, and the particular manner, and specific purposes for which such moneys have been expended; and such other information in relation to education in the said college and the measures of the board of trustees in the management thereof as the board of aldermen or the Regents of The University of the State of New York may, from time to time, require.

TITLE 3

THE NORMAL COLLEGE

The Normal College of the City of New York, a corporation and college

Section 1139 The Normal College of the City of New York is hereby declared to be a separate and distinct organization and body corporate, and as such shall have the power and privileges of a college pursuant to the revised statutes of this State, and be subject to the provisions of the said statutes relative to colleges, and to the visitation of the Regents of the University, in like manner with the other colleges of the State. Such college shall hereafter be known as Hunter College of the City of New York and the provisions of this charter as well as of all other acts and parts of acts in any manner relating to or affecting The Normal College of the City of New York shall apply to and continue in full force and effect in relation to said Hunter College of the City of New York. (*As amended by L. 1914, ch. 115.*)

Trustees, number and appointment

§ 1140 The board of trustees of said college on and after the 1st day of July, 1915, shall consist of nine residents of the city, men and women, to be appointed as hereinafter provided, of the president of the board of education of the city ex officio and of the president of said college ex officio. Except as herein otherwise provided, the said board shall have and possess the powers conferred upon and be subject to the duties required of the trustees of colleges by the Education Law. The mayor of the city of New York shall appoint before the 1st day of June, 1915, nine persons, men and women, to serve as such trustees, to hold office respectively as shall be designated by the mayor, for one, two, three, four, five, six, seven, eight and nine years from the 1st day of July, 1915. On or be-

fore the 1st day of June prior to the expiration of the term of office of any trustee the mayor shall appoint his successor for a full term of nine years from the 1st day of July following. The mayor shall fill any vacancy existing in the office of trustee—other than the president of the board of education and the president of the college—by the appointment of a trustee to hold office for the unexpired term. Each trustee so appointed shall take the oath of office required by the constitution of the State. Any resignation from the office of trustee shall be made to the mayor. No trustee shall be subject to removal under the provisions of section 95 of this act, but any trustee appointed by the mayor may be removed by the mayor upon proof either of official misconduct or negligence of official duties, or of conduct in any manner connected with his official duties or otherwise which tends to discredit his office, or the school system, or for mental or physical inability to perform his duties, but before such removal he shall receive due and timely notice in writing of the charges and a copy thereof, and shall be entitled to a hearing on like notice before the mayor, and to the assistance of counsel on said hearing. The board of trustees shall have the power to prescribe by-laws and regulations for the board and for the government of the college, its faculty, instructors, and other employees, and to authorize a curator or a member of said board as they deem proper, to advertise for, receive and open any and all bids. Such by-laws shall include rules governing the appointments of all officers, members of the faculty, instructors and other employees of the college. A majority of the members of the board appointed by the mayor as aforesaid shall constitute a quorum for the transaction of business and no resolution or act of the board shall be invalid by reason of any vacancy existing in the board, provided that such act or resolution shall be adopted by a vote of five members of the board. (*As amended by L. 1915, ch. 516.*)

Laws applicable to; participation in State literature and other funds

§ 1141 All acts of the Legislature now in force with regard to the said normal college, its control, management, support and affairs, not inconsistent with the provisions of this act, are hereby declared to be applicable to said college. The Normal College of the City of New York shall be entitled to participate in the distribution of the income of the literature, and other funds of the State in the same manner, and upon the same conditions as the other colleges of the State, and the Regents of The University of the State of New York shall pay annually to the comptroller of the city of New York, as trustee for said college, the distributive share of the said funds to which the said Normal College of the City of New York shall by law be entitled, and which shall be applied and expended for library books for said college.

Trustees to report annually the amount required to pay salaries, etc.; such amount to be raised by taxation; board of aldermen may increase amount named herein

§ 1142 It shall be the duty of the trustees of said college annually, on or before the 15th day of October, to report to the board of estimate and apportion-

ment such sum, not exceeding one hundred and fifty thousand dollars in any one year, as they may require for the payment of salaries of the professors and officers of the said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor, for repairing and altering the college buildings, and for the support, maintenance and general expenses of said college; and the said board of estimate and apportionment, and the board of aldermen of the city of New York are hereby authorized and directed, in each and every year to raise and collect by tax on the estate, real and personal, liable to taxation in said city such sum of money, not exceeding the amount aforesaid, as may be reported to them by said trustees, the amount so to be raised and collected to be in addition to the sums required for the purposes of common schools in the city of New York, under the act entitled "An act to amend, consolidate and reduce to one act the several acts of the State of New York relative to common schools of the city of New York," passed July 3, 1851, and the several acts amendatory thereto. Upon the recommendation of the trustees, the board of estimate and apportionment and the board of aldermen may increase from time to time the amount annually to be raised in the tax levy for the maintenance of the normal college.

Instruction to be furnished gratuitously; degrees and diplomas

§ 1143 The said board of education, as trustees of said college, shall continue to furnish, through the Normal College of the City of New York, the benefit of education gratuitously to girls who have been pupils in the common schools of the city of New York as constituted by this act, for a period of time to be regulated by the board of trustees of said college, and to all other girls who are actual residents of said city, and who are qualified to pass the required examination for admission to said college; and the board of trustees, upon the recommendation of the faculty of the said college, may grant the usual degrees and diplomas in the arts to such persons as shall have completed a full course of study in the said college. The said board of trustees shall give normal instruction in manual training for the purpose of preparing teachers of manual training for the common schools.

Annual reports of trustees

§ 1144 The trustees of the Normal College of the City of New York shall make and transmit annually, on or before the 1st day of February in each year, to the board of aldermen and also to the secretary of the Board of Regents of the University of the State of New York, a report, dated on the last secular day of December next preceding, which report shall state the names and ages of all the pupils instructed in said college during the preceding year, and the time that each was so instructed, specifying which of them have completed a full course of study therein, and which have received degrees, medals and other special testimonials; a particular statement of the studies pursued by each pupil since the last preceding report, together with the books such student shall have studied, in whole or in part, and if in part, what portions; an account or estimate of the

library, philosophical and chemical apparatus and mathematical or other scientific instruments belonging to said college; the names of the instructors employed in said college and the compensation paid to each; what amount of moneys the board of trustees received during the year for the purposes of said college, and from what source, specifying how much from each, and the particular manner and specific purposes for which such moneys have been expended, and such other information in relation to education in the said college, and the measures of the board of trustees in the management thereof, as the board of education or the Regents of the University of the State of New York may from time to time require.

Money appropriated for, to be expended when required by trustees; contracts by trustees

§ 1145 The moneys apportioned to the board of education of said city of New York by the board of estimate and apportionment and board of aldermen, for the payment of the salaries of the professors and officers of said college, for obtaining and furnishing scientific apparatus, books for the students and all other necessary supplies therefor, for repairing and altering the college buildings, and for the support, maintenance and general expenses of said college, shall be expended for said normal college when required by the trustees of the Normal College of the City of New York, with the same right, power and authority as if the said college were under the control of the board of education of the city of New York. All contracts entered into or liabilities incurred by said trustees involving the expenditure of more than one thousand dollars, except agreements for the payment of salaries, shall be entered into and incurred in the same manner and subject to the restrictions and limitations provided as to other expenditures of public moneys as provided for in this act.

TITLE 4

GENERAL PROVISIONS

Religious sects and dogmatic books excluded; Bible retained

§ 1151 No school shall be entitled to or receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect shall be taught, inculcated or practised, or in which any book or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect shall be used, or which shall teach the doctrines or tenets of any other religious sect, or which shall refuse to permit the visits and examinations provided for in this chapter. But nothing herein contained shall authorize the board of education or the school board of any borough to exclude the Holy Scriptures, without note or comment, or any selections therefrom, from any of the schools provided for by this chapter; but it shall not be competent for the said board of education to decide what version, if any, of the Holy Scriptures, without note or comment, shall be used in any of the schools; provided that nothing herein contained shall be so con-

strued as to violate the rights of conscience, as secured by the constitution of this State and of the United States.

Certain private schools authorized to participate in common school fund

§ 1152 The school established and maintained by the Five Points House of Industry, in the city of New York, the school established and maintained by the Ladies' Home Missionary Society of the Methodist Episcopal Church, at the institution in Park street, near the place usually called the five points, in the said city, and the industrial schools established and maintained under the charge of the Children's Aid Society in the city of New York shall participate through the board of education in the distribution of the common school fund in the same manner and degree as the common schools in the city of New York, and shall be subject to the same regulations and restrictions as are now by law imposed on the common schools of New York. (*As amended by L. 1901, ch. 714.*)

To report as to moneys and attendance

§ 1153 The board of education shall require from the officers conducting schools by appointment of the board, and from the trustees, managers or directors of the corporate schools entitled to participate in the apportionment of school moneys, a report in all respects similar to that formerly required in the city of New York as constituted prior to the passage of this act from the trustees of each ward. And in making the apportionment among the several schools, no share shall be allotted by the board to any school or society from which no sufficient annual report shall have been received, for the year ending on the last day of June immediately preceding the apportionment.

Certain additional private schools authorized to participate in school funds

§ 1154 The New York Orphan Asylum School, the Roman Catholic Orphan Asylum School, the schools of the two half-orphan asylums, the school of the Society for the Reformation of Juvenile Delinquents, in the city of New York, the school for the Leake and Watts' Orphans' House, the school connected with the almshouse of said city, the school of the Association for the Benefit of Colored Orphans, the schools of the American Female Guardian Society, the school established and maintained by the New York Juvenile Asylum, by the New York Infant Asylum, by the Nursery and Child's Hospital, including the country branch thereof; the orphan asylums and industrial schools as existing in the city of Brooklyn at the time of the passage of this act, and the several schools and branches thereof, the schools organized under the act entitled "An act to extend to the city and county of New York the provisions of the general act in relation to the common schools, passed April 11, 1842," or an act to amend the same, passed April 18, 1843, or an act entitled "An act more effectually to provide for common school education in the city and county of New York, passed May 7, 1844," or any of the acts amending the same, and such schools as may be organized under the provisions of this chapter shall be subject to the general supervision of the board of education, and shall be entitled, through the said board, to

participate in the apportionment of the school moneys, as provided for in this chapter, but they shall be under the immediate direction of their respective trustees, managers and directors, as herein provided.

Accidental omission to report

§ 1155 Whenever an apportionment of the public money shall not be made to any school, in consequence of any accidental omission to make any report required by law, or to comply with any other regulation or provision of law, the board of education may, in its discretion, direct an apportionment to be made to such school, according to the equitable circumstances of the case, to be paid out of the public money on hand, or, if the same shall have been distributed, out of the public money to be received in a succeeding year.

Trustees of such schools may convey to corporation and become merged

§ 1156 The trustees, managers and directors of any of the corporate schools entitled to participate in the apportionment of the school moneys may, at any time, convey their schoolhouses and sites to the corporation of the city of New York, and transfer any of their schools to the board of education, on the terms and in the manner to be agreed upon and prescribed by the board of education, so as either to merge the said schools in the public schools or adopt them as public schools; and the same shall then be public schools, subject to all the rules, duties and liabilities, and enjoy the same rights as if they had been originally established as public schools.

Nautical school may be established and maintained

§ 1157 The board of education may in its discretion provide and maintain a nautical school in said city, for the education and training of pupils in the science and practice of navigation; to furnish accommodations for said school, and make all needful rules and regulations therefor, and for the number and compensation of instructors and others employed therein; to prescribe the government and discipline thereof, and the terms and conditions upon which pupils shall be received and instructed therein, and discharged therefrom, and provide in all things for the good management of said nautical school. And said board shall have power to purchase the books, apparatus, stationery, and other things necessary or expedient to enable said school to be properly and successfully conducted, and may cause the said school or the pupils, or part of the pupils, thereof to go on board vessels in the harbor of New York, and take cruises in or from said harbor for the purpose of obtaining a practical knowledge in navigation and of the duties of mariners. And the said board are hereby authorized to apply to the United States Government for the requisite use of vessels and supplies for the purpose above mentioned. (*As amended by L. 1913, ch. 321.*)

Nautical school; management of

§ 1158 The said board of education shall appoint annually at least three of their number who shall, subject to the control, supervision and approbation of the

board, constitute an executive committee, for the care, government, and management of such nautical school, under rules and regulations so prescribed, and whose duty it shall be, among other things, to recommend the rules and regulations which they deem necessary and proper for such school.

Chamber of commerce to appoint committee to serve as council

§ 1159 The chamber of commerce of New York is authorized to provide for and appoint a committee of its members to serve as a council of the nautical school, whose duty it shall be as far as may be to advise and cooperate with the board of education in the establishment and management of such school, and from time to time to visit and examine the same, and to communicate in respect thereof, with the board of education, or such executive committee thereof, and to make reports to the chamber of commerce which may transmit to the State Superintendent of Public Instruction such reports, or any thereof, or an abstract of the same, with such recommendations as may be deemed advisable.

Expenses

§ 1160 After the establishment and organization of the said school, the expenses thereof, and of carrying out the provisions of this chapter, shall be defrayed from the moneys raised by law for the support of common schools in the city of New York.

New York Institution for the Blind

§ 1161 The board of education is hereby authorized and required to distribute to the managers of the New York Institution for the Blind a ratable proportion of the said school fund to every blind pupil in said institution, without regard to age.

Anniversary day is a holiday in the public schools of the borough of Brooklyn

§ 1162 The 8th day of June in the year 1905 and thereafter the first Thursday in June in each year, except in those years when the first Thursday in June occurs in the same week with Memorial day, and in such years the second Thursday in June, known as anniversary day, and celebrated in commemoration of the organization of Sundays¹ schools, is hereby made and declared to be a holiday in all the public schools in the borough of Brooklyn, city of New York, and the board of education of such city is hereby authorized and directed to cause all the public schools in such borough to be closed on such day. (*As added by L. 1905, ch. 528.*)

Money not to be paid to sectarian schools; public property; how disposed of

§ 1552 No money belonging to the city raised by taxation upon the property of the citizens thereof, shall be appropriated in aid of any religious or denominational school, neither shall any property, real or personal belonging to said city,

¹ So in the original.

be disposed of to any such school, except upon the sale thereof at public auction, after the same has been duly advertised, at which sale such school shall be the highest bidder, and upon payment of the sum so bid into the city treasury; neither shall any property belonging to the city be leased to any school under the control of any religious or denominational institution, except upon such terms as the city property may be leased to private parties after the same has been duly advertised.

JAMAICA NORMAL SCHOOL

Chapter 524, Laws of 1905

An act to transfer to the city of New York the normal and training school in the borough of Queens, city of New York, formerly in the village of Jamaica and county of Queens

Section 1 The normal and training school heretofore established in the former village of Jamaica, in the county of Queens, pursuant to the provisions of chapter 553 of the Laws of 1893, entitled "An act to establish a normal and training school in the village of Jamaica and county of Queens," including all the lands, buildings and appurtenances thereunto belonging, shall be transferred and conveyed to the city of New York, for the use of the said city as a training school and public school on the 1st day of January, 1906, upon terms to be fixed and agreed upon by a commission consisting of the mayor, comptroller and president of the board of education of the city of New York and the Commissioner of Education and the Comptroller of the State of New York.

§ 2 Upon the transfer of the said school under the terms fixed by the said commission, the conduct, management and support thereof shall be regulated by chapter 378 of the Laws of 1897, as amended by chapter 466 of the Laws of 1901, known as the Greater New York charter, and the board of education shall have and exercise the same rights and powers in respect to said school as said board possesses in respect to other public schools in the city of New York.

§ 3 The principals, teachers, janitors and other employees of the said school shall be transferred from the service of the State to the service of the city in the respective positions to which they have been appointed, and shall be entitled to such compensation as is now provided or may hereafter be provided for similar positions in the schools of the city of New York by the lawful authority, subject to change of title and to transfer, reassignment or removal for cause, as may be provided by law; and all such principals, teachers, janitors and other employees shall be eligible for reappointment, subject, however, to the right of the board of education of the city of New York to abolish unnecessary positions, and subject also to their complying, in the case of teachers, with the provisions of the board of education of the city of New York with regard to renewal and permanence of license, and, in the case of janitors, with the provisions of the law relating to the civil service, that are applicable to the city of New York.

§ 4 Provision for the maintenance of said school and the payment of salaries shall be made by the board of estimate and apportionment in the budget for 1906.

§ 5 All acts or portions of acts inconsistent with the provisions of this act are hereby repealed.

Chapter 669, Laws of 1911, relates to retirement of officers, clerks and employees in New York City.

Chapter 230, Laws of 1874, relates to the Hebrew Orphan Society.

Chapter 835, Laws of 1872, relates to the Society for the Relief of the Ruptured and Crippled.

Chapter 598, Laws of 1880, relates to "The Association for Befriending Children and Young Girls," and in relation to said association, and to provide for the support of the persons cared for by such association.

Chapter 285, Laws of 1891, as amended by L. 1894, ch. 103; L. 1896, ch. 717; L. 1914, ch. 473, relates to New York Botanical Gardens.

Chapter 322, Laws of 1913, relates to the establishment of a State Nautical School. Under this law the Nautical School was transferred from the city to the State.

Chapter 222, Laws of 1914, relates to the establishment of a College of Commerce and Administration and a Museum of Commerce and Civics.

Chapter 480, Laws of 1914, excepts the city of New York from the provisions of section 650 of the Education Law, which provides for the establishment of permanent census boards in cities of the first class.

Chapter 296, Laws of 1894

An act to amend an act, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," relative to a public school teachers retirement fund

Section 1 Section 1028 of chapter 410 of the Laws of 1882, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," is hereby amended by adding thereto the following subdivision, to be known as subdivision 7 of said section:

7 The board of education of the city of New York is hereby given the general care and management of the public school teachers retirement fund created by this act. The comptroller of the city of New York shall hold all money belonging to said fund, and by the direction of said board of education shall invest and pay out the same. The board of education shall have charge of and administer said public school teachers retirement fund as it shall deem most beneficial to said fund, and is empowered to make all necessary contracts and take all necessary and proper action and proceedings in the premises, and to make payments from said fund of annuities granted in pursuance of this act; and shall, from time to time, establish such rules and regulations for the administration of said fund as it may deem best. And the comptroller of the city of New York shall report in detail to the board of aldermen of the city of New York, annually, in the month of January, the condition of said fund, and the items of the receipts and disbursements on account of the same. The public school teachers retirement fund herein provided for shall consist of the following, with the interest and income

thereof: (1) All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any teacher or teachers for and on account of absence from duty for any cause. The clerk of the board of education shall certify monthly to the comptroller the amounts so deducted from the salaries of teachers during the preceding month. (2) All moneys received from donations, legacies, gifts, bequests or otherwise, for and on account of said fund. (3) All such other methods of increment as may be duly and legally devised for the increase of said fund. On and after the passage of this act the board of education shall, by amending its by-laws relating to the excuse of absence of teachers with pay, so provide that the aggregate of the several sums deducted or forfeited on account of absence from duty shall be fully adequate to meet the demands made upon the public school teachers retirement fund for the payment of annuities as herein provided. Said board of education shall have power, by a two-thirds vote of all its members, and after a recommendation to that effect shall have been made by the city superintendent of schools, stating that the teacher is mentally or physically incapacitated for the performance of duty, to retire any female teacher of the grammar and primary schools, including special teachers in the same, who shall have taught therein during a period aggregating thirty years, and to retire any male teacher of said schools who shall have taught therein during a period aggregating thirty-five years. And any teacher who during his term of service in said schools enlisted in the army or navy of the United States during the Civil War and was honorably discharged, shall have the time so served included in his term of service in the public schools. Any teacher so retired shall thereafter be entitled to receive as an annuity one-half the annual salary paid to said teacher at the date of said retirement, not to exceed, however, in any case, the sum of one thousand dollars per annum. The board of education is hereby given the power to use both the principal and the income on said fund and to manage, accumulate and otherwise control the same as said board shall provide by its by-laws, and to pay the annuities hereinbefore mentioned, and shall have power, from time to time, to reduce the amount of annuities of all beneficiaries of said fund, provided only that such reduction shall be at the same rate per centum. (*As amended by L. 1895, ch. 874.*)

Chapter 656, Laws of 1895

An act to amend chapter 583, title 17, Laws of 1888, entitled "An act to revise and combine into a single act all existing special and local laws affecting public interests in the city of Brooklyn"

Section 1 Title 17, chapter 583 of the Laws of 1888, entitled "An act to revise and combine into a single act all existing special and local acts affecting public interests in the city of Brooklyn," is hereby amended by adding thereto the following section, to be known as section 15, as follows:

§ 15 The board of education of the city of Brooklyn is hereby given the full care and management of the public school teachers retirement fund created by this act. The board of education shall have charge of and administer said public

school teachers retirement fund as it shall deem most beneficial to said fund, and shall make payments from said fund of allowances granted in pursuance of this act; and shall, from time to time, establish such rules and regulations for the application and administration of the said fund as it may deem best. The public school teachers retirement fund herein provided shall consist of the following, with the income and interest thereof:

1 The board of education shall on and after January 1, 1896, reserve monthly, and turn over to said fund, one per centum of the salaries paid each month to the teachers who shall, prior to that date, elect to come under the provisions of this act; and the board of education shall also reserve monthly and turn into said fund one per centum of the salaries paid each month to all teachers appointed after January 1, 1896.

2 All moneys and property received by donation, legacy, gift, bequest or otherwise for and on account of said fund.

3 All such other methods of increment as may be duly and legally devised for the increase of said fund. The board of education may retire from active service any male teacher not under sixty years of age, or any female teacher not under fifty-five years of age in its employ who has elected to come under the provisions of this act, or who shall be appointed on and after January 1, 1896, and who has taught not less than thirty years, of which twenty immediately preceding the proposed retirement shall have been in the public schools of Brooklyn. Each and every teacher retired under the foregoing clause shall receive during life an allowance annually equal to one-half of the annual salary received by said teacher at the time of said retirement, to be paid in quarterly instalments; but no teacher so retired shall receive more than twelve hundred dollars in any one year; provided, however, that no teacher shall be retired until he or she shall have paid into the retirement fund an amount equal to twenty per centum of his or her annual salary at time of retirement. Whenever the amount in the retirement fund herein provided shall not be sufficient in any year to pay in full the allowances hereinbefore specified payment shall be made in due proportion to the amount in the retirement fund applicable to that purpose.

NEWBURGH

Chapter 203, Laws of 1907

An act to revise and amend the charter of the city of Newburgh, being chapter 541 of the Laws of 1865, and the several acts amendatory thereof and supplemental thereto

TITLE XII

Section 4 The board of education of the village of Newburgh shall hereafter be known by the corporate name of "the board of education of the city of Newburgh," and shall continue to exercise all the powers and discharge all the duties, as set forth and conferred in and by the act entitled "An act to provide for the establishment of free schools in the village of Newburgh," passed April 6, 1852, or by any acts amendatory thereof, and all provisions of said act and acts amendatory thereof, shall continue in force and apply to said board, except as herein otherwise provided. The present members of said board shall continue to be members thereof, until their respective terms of office shall expire. The successors to the trustees now in office shall be elected at the general election, in each year as their respective terms expire, in the same manner as is now by law prescribed for their election, or as may hereafter be prescribed by act of the Legislature, and shall hold office until four years, from the 1st day of January next succeeding their election, as hereinbefore provided, and thereafter the person¹ elected to such office shall hold the same for four years from the 1st day of January next succeeding the date of their election. All the powers conferred in and by said act or acts amendatory thereof, upon the trustees of the village of Newburgh, shall hereafter be exercised by the city council of the city of Newburgh. It shall be the duty of the city council to raise by tax upon the real and personal property of said city, which shall be liable for ordinary city taxes, such moneys as the said board of education shall deem necessary for the purposes named in the ninth section of the said act, or any acts amendatory thereof, and such moneys when raised, shall be paid to the treasurer of said city, who shall be accountable therefor, and disburse the same, as provided in the tenth section of said act. The city council of the city of Newburgh is hereby authorized and directed, to provide by resolution, prior to the 1st day of October, 1907, for the issuing and sale of bonds of said city to the amount of eighty thousand dollars, such bonds to be in the denomination of one thousand dollars each and to draw interest at not to exceed five per centum per annum, and to be sold at not less than par; said bonds shall be known as "school bonds," and shall be signed by the mayor and city treasurer on behalf of the city and shall have the corporate seal of the city attached thereto; the proceeds of such bonds shall be placed to the credit of the board of education of said city; and shall

¹ So in original.

be at once applied to the liquidation of such indebtedness as shall have been incurred by said board of education in borrowing money to meet the necessary disbursements of said board. The resolution of said city council shall provide for one-twentieth of said bonds maturing in each year, and the board of estimate and apportionment shall provide for the payment of interest on such bonds and the retiring of such bonds as they mature.

§ 5 The said act is hereby amended by striking out the words the "trustees of said village" wherever they occur in said act, and inserting in place thereof, the words the "city council of the city of Newburgh," and by striking out the words "treasurer of said village," wherever they occur in said act, and inserting in place thereof the words "treasurer of said city," and by striking out the word "village" wherever it occurs in said act, and by inserting in place thereof the word "city."

TITLE V

Of the assessment and collection of taxes for city purposes

Section 1 . . . The estimate so made and submitted by the board of education shall include the amount required for the following purposes: To purchase, lease or improve sites for schoolhouses or for other buildings necessary for the school or library system of the city; to build, purchase, lease, enlarge, alter, improve and repair schoolhouses and their outhouses and appurtenances or other buildings necessary for the school or library system of the city; to purchase, exchange, improve and repair school apparatus, books, furniture and appendages; to procure fuel and pay the contingent expenses of the free schools; the expenses of the free library, and the annual salary of the clerk and his assistants; and to pay the salaries of the librarian and assistant librarians of the "Newburgh free library;" of the janitors and other employes, and to pay the wages of teachers, due after the application of the public school moneys, and all other moneys received by said board, or under their control, and which may by law be appropriated and provided for that purpose. The power of the board of estimate and apportionment to reduce the annual estimate of the board of education shall not be exercised unless said estimate, exclusive of public school moneys due and payable from the State, and exclusive of the cost of building sites, new school buildings or additions to public school buildings heretofore erected, exceeds in amount one per centum of the assessed valuation of all taxable property within said city of Newburgh, but said estimate shall not be reduced by said board of estimate and apportionment to an amount less than one per centum of the assessed valuation of all the taxable property within said city. Whenever said board of education shall decide to purchase land and erect thereon a new school building or buildings or other building or buildings necessary for the school or library system of said city, or the building of additions to school building or buildings or other buildings necessary for the school or library system of said city, the sum or sums necessary therefor shall be provided by the issuing of bonds of the city of Newburgh, which said bonds shall bear interest at a rate not exceeding five per centum per annum, and shall be payable within twenty years from the issuing thereof, but such issue shall not be in excess of the sum of forty thou-

sand dollars in any one year, without the consent of the city council, and the board of estimate and apportionment, which consent shall be subject to the approval of the mayor of the city of Newburgh. . . .

Article 2, section 1, provides for the election of nine members of the board of education.

Chapter 88, Laws of 1865 amending chapter 156, Laws of 1852

Section 1 Every district or common school located in the village of Newburgh, including the Newburgh High School, and every school which may hereafter be located in said village under this act, shall be free to all children between the ages of 5 and 21 years, residing in that village.

§ 2 All that part of the town of Newburgh, included within the bounds of the corporation of the village of Newburgh, shall hereafter constitute one common school district. John J. Monell, John Forsyth, Chas. Eastabrook, Geo. M. Clapp, Hugh McCutcheon, John Corwin, Egbert Alsdorf and Thos. Kimball are hereby appointed trustees of common schools in said village. The trustees herein appointed, and their successors in office, shall constitute a board, to be styled the board of education of the village of Newburgh, which shall be a corporate body in relation to all the powers conferred and duties enjoined on them by this act. The term of office of the several members of said board named in this act shall be determined by lot, at the first meeting after their appointment, in this manner: The term of office of two of said trustees shall expire on the second Wednesday after the charter election in said village, in the year of our Lord 1866; the term of two others shall expire on the second Wednesday after the charter election in said village in the year 1867; the term of two others shall expire on the second Wednesday after the charter election in said village, in the year 1868; and the term of the two remaining trustees shall expire on the second Wednesday after the charter election in said village, in the year 1869. The trustees named in this act shall take and subscribe the constitutional oath and file the same with the clerk of said village before entering on the duties of their office.

§ 3 After the passage of this act, the board of education of the city of Newburgh shall consist of nine trustees. There shall be elected at the annual charter election of the city of Newburgh, on the first Tuesday succeeding the first Monday of November, 1896, three trustees of common schools, viz: Two trustees to supply the places of those whose terms of office shall expire on the first Monday of March, 1897, and one additional trustee of common schools whose term of office shall commence on the first Tuesday of March, 1897, and shall expire on the Monday preceding the first Tuesday of March, 1900, and thereafter, in addition to the eight trustees of common schools to be elected in said city, as heretofore provided by law, there shall be elected one additional trustee, whose term of office shall continue for four years. All of such trustees shall be elected at the annual elections held in and for the city of Newburgh, in the same manner, and upon the same ticket with other officers of said

city, and the term of office of all trustees of common schools, elected as heretofore and herein provided, shall commence on the first Tuesday of March, after the annual charter election, and shall continue for the term of four years. The mayor of the city of Newburgh, within five days after this act shall become a law, shall appoint from the electors of said city, an additional trustee of common schools, who shall hold office until the first Tuesday of March, 1897, when the additional trustee, elected at the first annual charter election of the city of Newburgh, after the passage of this act, shall enter upon the discharge of his duties, and continue to discharge the same until the first Tuesday in March, 1900, as hereinbefore provided. (*As amended by L. 1873, ch. 27; L. 1895, ch. 831; L. 1896, ch. 416.*)

§ 4 The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances, and all other school property in said village in this act mentioned, shall be vested in the board of education, and the same shall not be subject to taxation or assessment for any purpose; and the said board of education, in its corporate capacity, may take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of the common schools or of the free library in said village, except that no real estate held by said board for school purposes shall be sold or disposed of without the consent of the trustees of the village first obtained, as hereinafter provided.

§ 5 It shall be the duty of the clerk of said village, immediately after the election of any person as trustee of common schools, personally or in writing to notify him of his election; and if any such person shall not, within ten days after receiving such notice of his election, take and subscribe the constitutional oath and file the same with the clerk of said village, the trustees of said village may consider it a refusal to serve, and the person so refusing shall forfeit and pay to the village treasurer, for the benefit of the tuition fund, a penalty of ten dollars.

§ 6 The board of education shall have power, at any regular meeting, to fill any vacancies that may occur in the number of trustees from any other cause than the expiration of their term of service. The person or persons so chosen must, within ten days after being notified by the clerk of said board of their election, take and subscribe the constitutional oath and file the same with the clerk of said village.

§ 7 Removal from the village, or failure to attend three consecutive regular meetings of the board, may be deemed a resignation of the office of trustee of common schools under this act, and the vacancy may be filled as hereinbefore provided. Any trustee of common schools in said village, elected under this act, may be removed from office by the trustees of said village for official misconduct; but a written copy of the charges against such trustee shall be served upon him, and he shall be allowed to refute such charges of misconduct before removed.

§ 8 The annual meeting of the board of education shall be held on the second Wednesday of March, in each year, when they shall elect a president and vice

president, who shall be of their number, and a clerk, who may be of their number. The president shall perform such duties as are specified in this act, or as may be enjoined upon him by the by-laws of the board; and in his absence the vice president shall perform his duties. The clerk shall keep a record of the proceedings of the board, a book of accounts with the treasurer of the city, and with the teachers or other persons employed by the board, and shall perform such other duties as may be specified by this act, or by the by-laws and instructions of the board. (*As amended by L. 1895, ch. 831.*)

§ 9 A majority of the board shall form a quorum, and be competent to transact any business of said board. The members of the board shall not receive compensation for their services as trustees. The board shall have power to fix, from time to time, the compensation of the clerk, and of his necessary assistants. The records of the proceedings of the board, or a transcript thereof, certified by the president (or in his absence by the vice president), shall be received in all courts as prima facie evidence of facts therein set forth, and such records, and all the books, vouchers, accounts, and papers of said board, shall at all times be subject to the inspection of the trustees of said village and of any committee thereof.

§ 10 The board of education shall have a regular meeting at least once in each quarter. At the annual meeting the president shall appoint such standing committees as may be provided in the by-laws of the board.

§ 11 The board of education shall have power, and it shall be its duty:

1 To establish and organize in said village such and so many public schools and departments of higher grades (including an academical department), and schools for colored children, as said board shall deem requisite and expedient, and to alter and discontinue the same at its discretion;

2 To hire, purchase, and prepare houses or rooms for the purpose of free public schools;

3 To alter, improve and repair schoolhouses and appurtenances, as they may deem advisable;

4 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the expenses of the free library;

5 To have the custody and safekeeping of the schoolhouses, outhouses, books, furniture and appendages, and to see that the ordinances of the trustees of the village and the rules of the board of education in relation thereto are observed;

6 To contract with and employ all necessary teachers, and at their pleasure to remove them;

7 To provide evening schools for those whose ages or avocations are such as to prevent their attending the day schools established by this act;

8 To pay the wages of such teachers out of the moneys from all sources appropriated and provided by law for this purpose;

9 To defray the necessary contingent expenses of the board, including the wages of janitors;

10 To expend all moneys raised by this act for building schoolhouses, pur-

chasing sites, and other purposes for which the same may be raised, in such manner as they may deem proper;

§ 11 To have the superintendence and management of the common schools in said village, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government, and instruction; for the reception of pupils, and their transfer from one school to another, for their advancement from class to class, as their degree of scholarship may warrant, and generally for the promotion of their good order, prosperity and public utility; and if at any time an academical department shall be established by said board, it shall be entitled to its distributive share of the literature fund, in like manner and on like conditions with the academies of this State, and shall be subject to the visitation of the Regents of the University, in like manner with the other academies of this State.

§ 12 The common council of the city of Newburgh shall have the power, and it shall be their duty to raise from time to time by tax, or as hereinafter provided, to be levied equally upon all the real and personal property in said city which shall be liable for the ordinary city taxes, such sum or sums of money as the board of education shall deem necessary for any or all of the following purposes:

1 To purchase, lease or improve sites for schoolhouses;

2 To build, purchase, lease, enlarge, alter, improve and repair schoolhouses, and their outhouses and appurtenances;

3 To purchase, exchange, improve and repair school apparatus, books, furniture and appendages;

4 To procure fuel and pay the contingent expenses of the free schools, the expenses of the free library, and the annual salary to the clerk and his assistants;

5 To pay the wages of teachers, due after the application of the public school moneys, and all other moneys received by said board, or under their control, which may by law be appropriated and provided for that purpose. And the board of education are authorized and directed, when necessary, to raise by loan either in anticipation of the taxes to be levied as aforesaid in this section, or the bonds to be issued as provided for in section 13 of this act, the moneys to be raised, levied and collected as aforesaid; the taxes to be levied as aforesaid, and collected by virtue of this act, shall be collected at the same time and in the same manner as other city taxes. (*As amended by L. 1869, ch. 122.*)

§ 13 The board of education of the city of Newburgh shall determine and certify to the common council of said city, on or before the 1st day of October in each year, the sums in their opinion necessary or proper to be raised under the twelfth section of this act, specifying the sums required for the year, commencing on the 1st day of October, for each of the purposes therein mentioned. And it shall be the duty of said board of education in all its expenditures and contracts, to have reference to the amount of moneys which shall be subject to their order during the current year, and not to exceed that amount (except

when in the opinion of said board of education a special emergency arises by reason of the destruction of any school building or buildings, or of the library building by fire or otherwise, then it shall be the duty of said board of education, in a supplemental estimate, to determine and certify to the common council of said city the sums necessary for the reconstruction of any such school building or buildings or library building, which sums shall be raised by said common council in the manner hereinafter provided); and all sums thus deemed necessary and proper shall be levied and collected in the same manner as other city taxes; provided, however, that whenever the said board of education shall determine and certify to said common council, either annually or specially as aforesaid, that it will be necessary to raise a certain sum or sums of money for the purposes of constructing any building or buildings in this act mentioned, then the said common council shall proceed to raise the amount of the sum or sums of money thus determined and certified by said board of education, and for that purpose shall have the power to raise three-quarters of said sum or sums of money on the credit of the city of Newburgh, and the said common council, for that purpose, are hereby authorized and shall have the power to issue bonds on the credit of the city of Newburgh; but the time of the payment of any bonds thus issued shall not extend beyond a period of four years. And it is further provided that said common council shall provide for the payment of such bonds in four or a less number of successive years, in annual instalments, by levy and collection in the same manner as other city taxes. And it is also provided that during the period covered by the issue and payment of said bonds as aforesaid, the board of education shall not determine and certify to said common council (except in cases of special emergency as aforesaid, or for additions to or alterations of buildings), any sum or sums of money as necessary for construction, unless by and with the consent and concurrence of said common council. (*As amended by L. 1869, ch. 122.*)

§ 14 It shall be the duty of the trustees of the village, within fifteen days after receiving the certificate of the board of education, required by the thirteenth section of this act, of the sums necessary or proper to be raised under the twelfth section of this act, to certify to said board of education that the amount will be raised by them for the year commencing on said 1st day of October, for the purposes mentioned in said twelfth section.

§ 15 It shall be the duty of the board of education on or before the 1st day of October in each year, to prepare and report to the trustees of the village a true and correct statement of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, in which account shall be stated under appropriate heads:

- 1 The moneys raised by the trustees of the village under the twelfth section of this act;

- 2 The school moneys received by the treasurer of the village, under the distribution of the public moneys of the State;

- 3 The moneys received by the board under the fourth section of this act;

4 All other moneys received by the treasurer, subject to the order of the board, specifying the sources ;

5 The manner in which said sums of money shall have been expended, specifying the amount paid under each head of expenditure ; and also in detail, so far as may be necessary, to give the name of each party, company or corporation to whom any money or moneys may have been paid, together with the nature of the service or object for which such money or moneys were paid. And the said board shall cause the same to be published (within two weeks after making such report) in two of the newspapers published in the city of Newburgh. (*As amended by L. 1869, ch. 122, sec. 3.*)

§ 16 The board of education shall have power, and it shall be their duty, to keep and maintain, in the building on the east side of Grand street between First and Second streets, in the city of Newburgh, recently erected by them, one free library, to be known as the "Newburgh Free Library," for the use of the pupils in the schools under their charge and of the residents of the city. They shall receive all moneys which are now or may hereafter be appropriated to the district for library purposes by virtue of any law, and shall apply the same to the uses of said library. They shall have power to expend in the purchase of books, such moneys as may be received for tuition of nonresident pupils, together with the moneys received for penalties incurred for the loss, injury or destruction of books, or of their detention or other cause, or any other moneys that may lawfully come to their hands applicable to such purpose. They shall have power to direct the sale or exchange of any books of which there are duplicate copies in the library, or that may be regarded as of improper character, and apply the proceeds to the purchase of other books ; and shall keep the books of the library in good repair, and shall make such arrangements as shall be necessary for their preservation and circulation. They shall have power to accept the donation of books or other property to such library, and to receive or hold, for the use of the public, the books of any library that may now or hereafter be granted for that purpose, and to make provision for their preservation and repair. They shall have power, and it shall be their duty to appoint a librarian, who shall have charge of the library under their direction and control, with power to appoint such assistant librarians as the said board may direct, and subject to their approval ; and the board shall annually fix the compensation which the said librarian and his assistants shall receive, and which sum shall be raised as provided by subdivision 4 of section 12 of this act. (*As amended by L. 1893, ch. 216.*)

§ 17 Whenever, in the opinion of the board, it may be advisable to sell any of the schoolhouses, lots or sites, they shall report the same to the trustees of the village, and with the consent of the trustees shall sell and dispose of such schoolhouses, lots or sites to the best possible advantage.

§ 18 All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to and provided for said village, shall be paid to the treasurer of the village of Newburgh, who, together with the sureties

upon his official bond, shall be accountable therefor, in the same manner as for any other moneys in said village. Such moneys shall be deposited with such treasurer to the credit of said board of education, and shall be drawn only in pursuance of a resolution of said board, by a draft drawn by the president (or vice president, in his absence), and countersigned by the clerk, payable to the order of the person or persons entitled to receive such moneys; and said treasurer shall keep the funds received by him under this act separate and distinct from any other funds; but nothing in this act contained shall be regarded as prohibiting the temporary loan, by the board of education, to the trustees of the village, of any surplus moneys which may stand to the credit of the board of education on the books of the treasurer, the trustees of the village replacing the same whenever it may be required by the said board.

§ 10 The trustees of the said village shall have the power, and it shall be their duty, to pass such ordinances and regulations as the said board of education may report as necessary and proper for the protection, safekeeping, care and preservation of the schoolhouses, lots, sites, appurtenances and appendages, library, and all property belonging to or connected with the schools in said village; and, to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act to incorporate the said village; and all such penalties shall be collected in the same manner that the penalties for the violation of the village ordinances are by law collected, and when collected shall be paid to the treasurer of the village, and be subject to the order of the board of education in the same manner as other moneys raised pursuant to the provisions of this act.

§ 20 The said board of education shall have power to allow the children of persons not residents within the village to attend any of the free schools of said village, under the care and control of said board, upon such terms as said board shall by resolution prescribe.

§ 21 The said board of education shall make an annual report to the school commissioner of the school commissioner's district in which said village is situated, containing the facts required to be reported by the trustees of school districts; and said districts shall participate in the apportionment of the public school moneys in the same manner and upon the same conditions as common school districts.

NIAGARA FALLS

Chapter 300, Laws of 1904

An act to revise and consolidate the several acts relative to the city of
Niagara Falls

ARTICLE VIII

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 340 Boundaries
341 Board of education; how constituted
342 Organization
343 Powers
344 Duties
345 Powers, subject to **approval**
346 Certificate of expenses
347 Approval of certificate
348 School moneys to be kept **separate**
349 Transfer of school moneys
350 Purchase of site and buildings
351 Report of expenditures
352 State apportionments payable to **treasurer**
353 Ordinances for school property

Section 340 All the territories included within the boundaries of the city of Niagara Falls shall constitute a separate school district within this State, and shall be designated as the "union school district of the city of Niagara Falls." It may bear such other additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all rights, powers, privileges, public moneys and other benefits conferred by law or other State authority upon school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities, except as otherwise provided by this act.

§ 341 The affairs of said union school district of the city of Niagara Falls shall be managed by a board of nine members, to be organized in the manner herein provided, which board shall be known and designated as the "board of education of the city of Niagara Falls." Said board and its successors shall possess all the powers conferred and discharge all the duties imposed by this act or by any general law of this State relating to school districts in cities, or relating to the boards of education of such districts, and not inconsistent with the provisions of this act.

§ 342 On the Monday following the appointment of the members of the board of education to fill vacancies occurring in said board by expiration of term, the board of education shall convene at eight o'clock in the afternoon, at its usual place of meeting. The persons so appointed shall thereupon take the oath of office, and the board of education of the city of Niagara Falls as con-

stituted for the preceding year shall be dissolved, and the board of education composed of the persons so appointed and those whose term of office shall not have expired, shall then be organized by the election of a president from among their number, and of some suitable person not of their number but who shall be a resident of said city as the clerk of said board. A majority of the board of education shall constitute a quorum for the transaction of business, and it shall keep a record of its proceedings.

§ 343 The board of education of the city of Niagara Falls shall have the power, subject to the provisions of this act, to purchase, take, lease, hold or improve any real or personal estate in trust for said school district of said city in the support and maintenance of schools, or for any of the purposes of education in said city. It may also take by purchase, gift, grant, bequest or devise and hold any real or personal estate in trust for any of the purposes of education or art or for the support or maintenance of public libraries in said city upon such terms as may be prescribed by the donor or donors and accepted by said board; and it may execute any trust for any of the purposes aforesaid and provide for the proper execution thereof. It may also establish a system of pensions for public school teachers of the city whenever it shall deem the same advisable. The title of all schoolhouses, sites, lots, furniture, books, apparatus and other school property belonging to or in possession of the school district of the city of Niagara Falls shall so continue for the purposes of education, in said city subject to any existing liability.

§ 344 Subject to the provisions of this act, said board shall have power, and it shall be their duty

- 1 To establish and organize in said city such and so many free schools, including night and vacation schools, as said board shall deem necessary and proper, and to change or discontinue the same in their discretion.

- 2 To purchase, as herein prescribed, hire, sell or dispose of schoolhouses, lots, sites and school furniture as they may deem advisable.

- 3 To alter, improve and repair schoolhouses and appurtenances, as they may deem advisable.

- 4 To purchase, exchange, improve and repair school apparatus, books, supplies and appendages, and to defray the necessary expense attending the same.

- 5 To have the custody and safekeeping of the school buildings, lots, out-houses, books, furniture and appendages, and to see that the ordinance and by-laws of said city in relation thereto are enforced, and any violation thereof punished.

- 6 To contract with and employ janitors and employees.

- 7 To contract with and employ a superintendent of instruction for said city and all necessary teachers and to remove said superintendent, teachers and other appointees under such rules and regulations as may be established by law or by the Department of Public Instruction of said State.

- 8 To expend all moneys raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such manner as they

may deem best, but only for the purposes for which the same was so raised, except as hereinafter provided.

9 To license, upon the recommendation of the superintendent of instruction of said city, all teachers now employed in the schools of said city, in the same manner and with like effect in said city as school commissioners of counties.

10 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor, in the same manner and under the same proceedings as prescribed in this act and as conferred upon the common council to take and appropriate lands for opening streets and highways.

11 To have, to the exclusion of all boards and officers except The University of the State of New York, the Department of Public Instruction of this State, and as herein otherwise provided, the entire supervision and management of the schools in said city, and from time to time, to adopt, alter, modify or repeal as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one schoolroom or house to another, for their advancement from class to class as their degree of scholarship shall warrant, and generally for the promotion of the good order and prosperity of said schools.

12 To allow the children of persons nonresident within the city to attend any of the schools therein under the control of said board upon such terms as said board by resolution may prescribe.

13 To maintain a free public library, which shall be under the control of a board of library trustees consisting of the mayor, the president of the board of education and three other members, one of whom shall be elected by the board of education at the January meeting of said board, in each year, for a term of three years. The board of education shall have power to fill any vacancy in said board of library trustees for the unexpired term. The board of library trustees as now constituted is hereby continued. Said library trustees shall provide rooms for their use, and employ librarians or other employees and shall have the care of the library building and rooms and the books and other publications belonging thereto, and superintend the letting out and return thereof.

14 To exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

15 Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

16 Except as otherwise provided in this act, to exercise all the powers conferred and discharge all the duties imposed by the general laws of this State applicable to boards of education in cities. The records of the proceedings of said boards, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 345 The powers given to the board of education in subdivisions 2, 3, 8 and 10 of section 344 and to the trustees of the free public library in subdivision 13 of section 344, with respect to the expenditure of money over two hundred dollars, shall be exercised subject to the approval of the board of estimate and apportionment. In the event of the board of estimate and apportionment disapproving of any action of said board of education or the trustees of the free public library, taken as aforesaid, such disapproval shall be referred back to the board of education or to the trustees of the free public library and such action shall not be valid or binding when so disapproved, unless three-fourths of all members of the board of education or of all the trustees of the free public library shall vote to take such action. If the board of estimate and apportionment shall fail or neglect to approve or disapprove any such action for thirty days after the same is presented to such board, then it shall take effect as if it had been approved. (*As amended by L. 1906, ch. 335.*)

§ 346 On or before the 1st day of April of each year the board of education shall prepare a certificate of such sums of moneys as it may deem necessary for the school year commencing August 1st thereafter for each of the following purposes, namely:

1 For wages of superintendent and teachers after applying all the public school and other moneys applicable thereto.

2 For the repair, enlargement or improvement of schoolhouses, outhouses and grounds with their appendages and appurtenances.

3 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

4 For the rent of schoolhouses and rooms for school purposes.

5 For the purchase, maintenance and care of the free public library, library buildings and grounds.

6 For the purchase of fuel and lights, and to pay the contingent expenses of the district, including the salaries of the janitors and the incidental expenses.

§ 347 Such certificates shall within the time hereinbefore specified, be presented to the board of estimate and apportionment of said city, and if a majority thereof shall approve, they shall sign it and immediately file the same with the city clerk; if within twenty days after it is received, they do not approve it, reject it or diminish any items therein contained the same shall be considered as approved by the board of estimate and apportionment. Such annual certificates so approved or adopted shall be filed with the city clerk, and the common council of said city shall include the amount so certified in the annual city tax and assessment roll for that year, and such amount shall be collected by the city treasurer and credited to the various funds so designated in said certificate.

Whenever any said sum or sums shall have been so certified and filed with the city clerk, the city treasurer shall have authority and it shall be his duty to borrow upon the faith and credit of said city the amount so certified, or any part thereof which may be necessary to meet the various orders of the board

of education upon him in paying the current expenses of said district for the year for which the certificates were presented. (*As amended by L. 1911, ch. 645.*)

§ 348 All public moneys or other funds, other than the general city taxes, belonging or appropriated to the use of said district shall be paid to the city treasurer, who shall keep the same separate from the general funds of the city, and shall credit to each of said school funds the moneys or property belonging thereto. Upon request from said board the city treasurer shall certify from time to time the various balances remaining to the credit of any or all of the school and library funds, and the balances remaining unpaid to said various funds from the amount of the school certificate for that year. (*As amended by L. 1911, ch. 645.*)

§ 349 It shall be the duty of the common council to direct the city treasurer, not later than the 1st day of March in each year, to transfer from the general fund to the various school funds all moneys remaining due to such school funds from the general fund, upon the school certificate for the current school year.

§ 350 When the board of education shall determine by resolution that it is necessary to purchase any site or addition to any site, or erect any school building, or enlarge any school building already erected, it shall in such resolution state the ward within which the site is to be purchased or building to be erected or enlarged, and the particular sum required for each separately. If said total sum exceeds five thousand dollars, they shall then call a tax election in said city in the manner provided in this act for the calling of tax elections by the common council. Such tax election may be held at the same time and with any other tax election in said city. The clerk of the board of education shall notify the inspectors of the holding of said tax election in the same manner and within the same time that he is required to notify them in cases of tax elections called by the common council. The inspectors shall thereupon proceed to hold such election, pursuant to such resolution, and in the same manner as in holding other tax elections under this act, and the qualifications of the electors thereat shall be determined by the general school law of the State applicable to cities. When such tax election is not held at the same time and with a tax election called by the common council, as provided in this act, the board of education shall designate the polling places in each tax election district, and such tax election shall be held by the same inspectors, during the same hours and in the same manner as other tax elections under this act. Each elector at every such tax election shall vote only at the polling place designated for the tax election district in which he resides and shall have resided for the thirty days immediately prior to said tax election. The vote shall be taken by ballot, which shall be indorsed "school tax," and shall be deposited in a separate ballot box provided therefor and marked "school tax." The board of education shall at every such tax election provide sufficient printed ballots for the use of the electors thereat, upon which shall be printed the various items or objects to be voted for thereat, with the words "for" and "against" at the beginning of

each item. Each elector shall indicate his vote as to each of said items by placing a cross before the word "for" if he favors the proposition, and before the word "against," if he opposes the proposition. The inspectors shall canvass said votes without intermission or adjournment as at other elections, and make a statement thereof in respect to each item voted upon, and immediately file the same with the clerk of the board of education. Upon the day following such tax election the board of education shall convene at its usual place of meeting, at eight o'clock in the afternoon, and the statement from each polling place shall be produced, and the board shall forthwith declare and make a certificate in writing of the result. In case a majority of the votes cast be in favor of any of said taxes, the board of education shall have authority to borrow upon the faith and credit of said city the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The board of education shall authorize the issue of bonds or other evidences of indebtedness, in such form and payable at such times as it may prescribe, for the sum or sums so authorized at a rate of interest not exceeding four per centum per annum. Said bonds or any part thereof may be sold by the board of estimate and apportionment to the highest bidder after advertisement, but at not less than the par value thereof. The board of education, after completing the work or other objects for which the said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this article.

§ 351 It shall be the duty of the board of education, on or before the 1st day of September in each year, to make and file with the common council a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last school year of said board, and such report shall be published by the common council as a part of the proceedings of the meeting at which it is submitted. The board of education shall also make reports to The University of the State of New York and the Department of Public Instruction of the State, in such manner and at such times as they may direct.

§ 352 The county treasurer of Niagara county shall pay over to the city treasurer of the city of Niagara Falls, and he shall receive for the use of the board of education of said city such proportion of the school, library and other money apportioned to the said city of Niagara Falls by the Superintendent of Public Instruction for teachers' wages and libraries, and other purposes as shall by law be apportioned to said board of education or district.

§ 353 The common council of the city of Niagara Falls shall have the power and it shall be its duty to pass such ordinances and by-laws as the board of education of said city shall report as necessary for the protection, safekeeping, care and preservation of the school buildings and other property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

Section 16 provides that the mayor shall appoint a board of education of nine members and that the term of office of each member shall be three years.

Section 22 provides that each member of such board shall be an elector of the city. Section 60 prescribes the constitutional oath of office for each city officer. Section 66 confers on the clerk of the board the power to take affidavits and acknowledgments and to administer oaths. Section 133 makes the records of any board when duly entered and properly certified by the clerk presumptive evidence of the proceedings of such board. Sections 180 and 181 relate to estimates by the several departments of the city government. Sections 192, 193, 194 and 196 relate to bids for supplies and work for the city in general. Section 211 exempts the school and library buildings from the care of the board of public works and section 213 makes a like exemption in supplying gas to such buildings. Section 219 provides that in giving notice of street improvement assessments, land owned by the city shall be excluded.

NORTH TONAWANDA

Chapter 752, Laws of 1907

An act to revise the charter of the city of North Tonawanda

TITLE XVIII

CITY SCHOOLS

Section 1 School districts. The territory included within the boundaries of the city of North Tonawanda shall remain in the several school districts as they exist at the time of the passage of this act. Such school districts and parts of school districts shall be entitled to all the rights, powers, privileges, public moneys, and other benefits conferred by law or other State authority upon school districts, and shall be subject to all the rules, regulations, powers of inspection, and superintendence prescribed by law applicable to school districts throughout the State, except as otherwise provided by this act.

§ 2 School officers. The officers of the several school districts and parts of districts included within the boundaries of the city of North Tonawanda shall be the same as now provided by law, and shall possess the same power and be subject to the same duties and liabilities, except that the city treasurer shall be the collector for all districts lying wholly within the city, and he shall be the custodian of all such moneys as shall be paid to him by the county treasurer of Niagara county, and, also, of all moneys received for tuition, and all other receipts whatsoever. He shall keep a separate account with each of such districts, keeping each fund separate, as directed by the school authorities so to do, and shall pay out said moneys only upon warrants issued by the several school district officers, as directed by law. All taxes to be collected by the city treasurer shall be considered a part of the city taxes, and be governed by the same regulations as are herein provided. All districts lying wholly within the city shall have no other collector or treasurer than the city treasurer.

§ 3 School moneys apportioned. The county treasurer shall pay over to the treasurer of the city of North Tonawanda, for the use of the several school districts lying wholly within the corporate limits of the city, such proportion of the school, library and other public moneys apportioned to the said districts by the Superintendent of Public Instruction for teachers' wages, libraries or other purposes, as shall by law be apportioned to the said districts lying wholly within the corporate limits of said city.

NORWICH

This city was incorporated by the Laws of 1914, chapter 34. No provision is made in the city charter for the government of the schools and such schools are therefore governed by the general provisions of the Education Law.

OGDENSBURG

Chapter 382, Laws of 1857

An act in relation to schools and academies in the village of Ogdensburg

Section 1 All that territory comprised within the corporation limits of the village of Ogdensburg, lying in the town of Oswegatchie, and those parts of school districts nos. 1 and 21, of the town of Oswegatchie, lying without the said corporation limits, are hereby consolidated and organized into one school district, subject to the control of a board of education as hereinafter provided.

§ 2 The district hereby organized shall participate in the distribution of the school moneys and library money, in the same manner as other school districts. Whenever the board of education shall be organized under this act, the amount to which the district shall be entitled from the moneys distributed by the State, shall be paid over to the treasurer of the village of Ogdensburg, subject to the orders of the said board of education. The amount to which said district shall be entitled for the year 1857, shall be determined by the school commissioners of the county of St Lawrence, and the supervisor of the town of Oswegatchie shall pay the amount so determined to the treasurer of said village, upon the order of said school commissioners.

§ 3 The supervisor and town clerk, together with three of the justices of the peace of the town of Oswegatchie, shall on or before the 1st day of May, 1857, meet and divide the moneys derived from the sale of the school lot in said town, between the school district hereby organized and the remainder of said towns in proportion to the number of persons between 4 and 21 years of age, residing in the said village district and the said remainder; they shall also at the same time estimate and determine the value of the interest of the town of Oswegatchie, exclusive of the interest of the village of Ogdensburg in the academy building and grounds; they shall deduct the value of the interest of said town in such academy buildings and grounds from the share of the moneys derived from the sale of the school lot which would fall to the said district by this act organized; and shall make and subscribe a record of such division, estimate and deduction, and the result thereof, one copy of which shall be filed with the town clerk, and another with the village clerk. Such acts when completed shall divest said town, except the village of Ogdensburg, of all interest in Ogdensburg academy buildings and grounds. That portion of the said moneys arising from the sale of the school lot remaining to this district, shall be subject to the control of the board of education, within the provisions of this act.

§ 4 On the second Wednesday of May 1857, the electors of said village, in the same manner as the charter elections are held, shall meet and choose nine of their number as school commissioners, who, when organized as hereinafter provided, shall constitute the said board of education. Within eight days after notice of their election, they shall take the oath of office prescribed by the constitution and file the same with the village clerk; within ten days after their election, the persons so chosen and qualified shall meet and by lot arrange themselves into three equal classes, and class number one shall continue in office for one year, class number two for two years and class number three for three years, provided, however, that no term of office shall expire until a successor is chosen and qualified; and on the same day in each year thereafter, three persons shall be chosen as school commissioners for the term of three years. Any person elected or appointed to such office for neglect or refusal to serve without cause, shall forfeit twenty dollars, to be sued for, collected and applied as other penalties provided for in this act. (*See L. 1893, ch. 454, post.*)

§ 5 One of the said commissioners shall be selected by a majority of their number as president of the said board of education, which office shall continue for one year; the president shall preside when present at all meetings of the board.

§ 6 The village clerk shall be ex officio clerk of the board of education; he shall attend its meetings, make, engross and keep in a book provided for that purpose a record of all the doings, votes and reports of said board.

§ 7 The board of education may elect any person not a member of their own body, superintendent of schools, who in addition to such other duties as may be devolved upon him by said board, shall visit and supervise the schools in said village, examine into and determine the qualifications of all teachers and grant certificates to such as are qualified as are now granted by school commissioners, but which shall be valid for only one year, and may be revoked for cause by himself or by resolution of said board; he shall make out all annual and other reports touching the condition of the schools and all matters connected therewith. The term of office of such village superintendent of schools shall be three years, and his salary shall be fixed and paid by the board of education, and shall be a charge upon the general fund. (*As amended by L. 1869, ch. 363.*)

§ 8 In case of a vacancy in the said board of education, by refusal to serve or otherwise the said board may supply the same by appointment until the next annual election, when a commissioner shall be chosen for the remainder of the unexpired term.

§ 9 The treasurer of the village of Ogdensburg shall be ex officio treasurer of the board of education; he shall receive all school moneys, keep the same under the respective heads of "Teachers fund," "General fund," "Special fund," and "Academy fund," to which such moneys shall belong, to the credit of the board of education of the village of Ogdensburg; he shall pay out the same only on the warrant of said board, in favor of the person entitled to receive it, signed by the president and clerk; he shall report on the first day of each month,

to said board, the receipts of all moneys since his previous report, from what source and to which fund, the sums paid out, from which fund and to whose order, and the balance of each fund remaining on hand, with any general information specially required in writing by said board; he shall give bonds for the faithful performance of his duties in this office in a sum not less than double the amount of money to come to his hands; the form, amount and sufficiency of the sureties to be fixed and approved by said board of education and he shall renew the same as often and whenever said board by resolution shall require.

§ 10 The board of education shall be a body corporate in relation to their powers and duties under this act; five shall constitute a quorum for the transaction of business, except that when the question involves the appointment of school superintendent, or the removal of such superintendent or any teacher, the raising of money or the expenditure of over one hundred dollars, the assent of a majority of the whole board shall be requisite, and all questions shall be taken by ayes and nays, and the votes made a matter on record; any member of said board of education, or any officer, superintendent or teacher appointed by it may be removed for cause, after five days notice, by resolution of said board.

§ 11 The members of said board of education shall not receive any compensation for their services as such, but shall be repaid all actual disbursements incurred by them as such officers, nor shall they be interested as principal, partner or surety, in any contract connected with the schools or institute under the charge of said board, nor in making, erecting, furnishing or supplying anything whatever for the use or connected therewith, neither the superintendent nor any teacher in the schools organized under this act, nor any member of the board of village trustees, clerk, treasurer or collector, of said village, shall be eligible to the office of said school commissioner.

§ 12 The trustees of the village of Ogdensburg shall provide for the said board of education, a suitable room in which to hold their meetings, together with the proper and necessary furniture, stationery, fuel, lights, and books for records; said board shall meet as often as once in each month for the transaction of business, and special meetings may be called by the president or any three members of the board.

§ 13 The said board of education, when organized as herein provided, shall be and they are hereby invested with full and perfect title to all sites, lands, buildings, and all and every other property belonging or pertaining to the school districts within the bounds of the district hereby organized, and of the Ogdensburg Academy, to be kept and used for school purposes, except as hereinafter provided, and said board of education is hereby authorized and empowered to take and hold any and all real and personal estate or other things by grant, gift, devise or bequest, for the use of the schools or institute under its charge, and to use the same or sell and apply the proceeds as shall in its judgment best carry out the instructions of the donors, or subserve the interests of the schools.

§ 14 Within ten days after notice of an organization of the board of education, the trustees of the several districts hereby consolidated shall make, execute and deliver to the said board, a deed in fee simple of all lands, sites, buildings or

fixtures owned or possessed by said districts, and shall also deliver to said board all school furniture and any and all school property, belonging to or connected with said school districts, and also all school moneys in hand or uncollected, and all tax and rate bills uncollected, and at the same time report to said board an annual statement of all indebtedness of their respective districts, insurance, teachers employed, their names, compensation and period of contracts.

§ 15 The said board of education shall, within thirty days after receiving the reports required by section 14, from the trustees of said school districts, ascertain the amount of the indebtedness of each district, after the application of all its available means, and certify the same to the board of village trustees; they shall also, within the same time, determine what improvements and alterations are necessary in the schoolhouses, and the cost of the same beyond any funds applicable to such purpose, and certify the same to said trustees; and the said board of village trustees shall assess such several sums on all the taxable property in each of the respective districts where the money is to be used, and collect the same along with the first village tax collected thereafter, and place the same to the credit of the board of education and the village treasurer.

§ 16 All the taxable property within the bounds of the district hereby organized shall be liable to taxation under this act; and taxes shall be apportioned upon the property within the corporation according to the valuation in the last village assessment roll, and upon property lying without the village corporation, according to the valuation to be fixed by the village assessors, which they shall each year ascertain and assess as they do other property and attach at the end of the village roll.

§ 17 On or before the 1st day of May next, and on or before the 1st day of May in each year thereafter, the board of education shall determine and certify to the common council of the city of Ogdensburg the amount of money over and above all other funds in hand, applicable to that purpose, required for teachers' wages for the year commencing on the 1st day of April, and said board of education shall, at the same time, determine and certify to the said common council what sum of money, exclusive of any applicable to such purposes, is necessary and requisite to defray for the year the expenses for fuel, books for indigent scholars, school furniture and apparatus, insurance, leasing additional school-rooms, repairing houses, outhouses, fences and other expenses ordinarily incident to the maintenance of such schools; and the said common council shall cause to be assessed the several sums of money so certified on the taxable property and corporations within the district hereby organized, and collect the same along with the first city tax thereafter collected, which sums shall be placed with the city treasurer to the credit of the board of education, the first sum to the teachers' fund and the other sum to the general fund; provided, however, in no case shall the assessment for these purposes in any one year exceed seventy-five cents on the one hundred dollars on the property valuation of the said assessment rolls liable for said tax. In addition to the sum heretofore authorized to be raised, the said board of education shall, at the same time, certify to the common council of the

city of Ogdensburg, the sum which they shall deem necessary to be raised to pay the salary of the superintendent of schools in said city, not to exceed one thousand five hundred dollars, and the said common council shall cause the sum to be collected in the same manner as other moneys for the support of schools in said city, and place the same to the credit of the board of education in the general fund. Whenever the aforementioned assessments are valid, if for any reason the collector is unable to collect the full amount of his warrant, the common council shall supply any deficiency to these two funds, provided for by this section, out of any moneys which may come into the city treasury, and shall deposit the same as above. (*As amended by L. 1866, ch. 58; L. 1868, ch. 249; L. 1869, ch. 363; L. 1871, ch. 186; L. 1893, ch. 381; L. 1898, ch. 298; L. 1900, ch. 573; L. 1907, ch. 537; L. 1914, ch. 226.*)

§ 17-a When the money of any fund or funds of the board of education has been exhausted in any year and the board shall have determined and certified to the common council as provided in section seventeen of this act, and some time will elapse before the common council can turn over the school funds to the city treasurer, by reason of the city tax being collectible later in the year, such board is hereby authorized and empowered to borrow money at such times and in such amounts as shall be necessary for the maintenance of the schools of such district, pending the receipt of such school moneys from the city tax of the current fiscal year, but not exceeding in the aggregate the sums certified for such year.

For all moneys so borrowed the board of education shall issue certificates of indebtedness, signed by the president and clerk of the board and countersigned by the city treasurer, which shall be in such form and denominations and draw such rate of interest, not exceeding the legal rate, as the board of education shall determine, and shall be sold for not less than par. Such certificates shall mature not later than December 1st in the current year and shall be paid from the school moneys made available by the common council for school purposes for the same fiscal year. (*As added by L. 1915, ch. 113.*)

§ 18 The common schools and the Ogdensburg Academy, hereafter to be kept and maintained in the district hereby organized, shall be free to all persons, between the ages of 4 and 21 years, whose parents or guardians are actual residents of the district. The superintendent of schools and city clerk are hereby authorized to administer oaths and take affidavits in all matters pertaining to the schools and academy provided for by this act, which shall have the same validity as if administered or taken by a justice of the peace, but they shall receive no remuneration therefor. (*As amended by L. 1881, ch. 70.*)

§ 19 The trustees of the Ogdensburg Academy shall at the time specified in section 14, make, execute and deliver to the board of education, a deed in fee simple of the Ogdensburg Academy and grounds, and also deliver over to said board all property of whatever kind or nature, pertaining to said academy, with a report of all indebtedness, the names and compensation of its teachers and the time for which employed.

§ 20 The board of education shall, at the same time they make their certificates, as provided by section 15, determine what alterations or repairs to fit

the academy building for the purposes of an institute, and furnish it, over and above all means at their disposal for such purpose; and if they shall elect so to fit up and furnish it, they shall certify the sum so required, to the board of trustees, who shall assess the same upon the taxable property within the district hereby organized and cause the same to be collected along with the next village tax, and paid over as other sums to the academy fund.

§ 21 As soon as practicable after the necessary buildings are prepared the board of education shall organize a school to be designated the Ogdensburg Academy, which said academy shall be entitled to participate in the distribution of the literature and other funds, as do other academies of the State, and the Regents of the University shall pay annually to the board of education, said academy's distributive share of such funds. Said academy shall be subject to the visitation and control of said Regents in like manner as other incorporated academies. The said academy is hereby invested with all the rights of the old Ogdensburg Academy to any revenues derived from ferry licenses or other sources. (*As amended by L. 1881, ch. 70.*)

§ 22 Whenever the board of education shall deem the erection of additional schoolhouses necessary for the common schools, or new and additional edifices for the Ogdensburg Academy, they shall determine the kind of house, or edifice, the sum required to erect the same, purchase the site, and furnish the appurtenances, specifying the cost of each separately, and certify the same to the common council of the city of Ogdensburg. And said common council shall thereupon call a special election for the purpose of voting upon the said application in the same manner as other special elections are held in said city for the purpose of voting upon special taxes, except that four weeks' notice of such special election shall be given instead of two weeks, during which time said application and specifications shall be advertised once a week in two of the newspapers published in said city. At such election the common council shall provide a box for ballots labeled "schools" and also ballots on which shall be written or printed "for the school tax" and others so headed on which shall be written or printed "against the school tax." If more than one proposition is submitted at the same time separate boxes shall be prepared, each so labeled as to designate its proper object, thus "schools," "appropriation for academy," "schools," "appropriation for school-house," and the ballots shall be so headed, and shall be in other respects as herein previously provided; and the inhabitants of said district entitled under the present charter of the city of Ogdensburg to vote for special city tax shall decide by ballot for or against such appropriation. If a majority of such voters declare for any such appropriation the common council shall assess the same upon all the taxable property in said district, and direct its collection with the next city tax, and when collected to be paid over to the credit of the special fund, provided, however, that the common council may have the power to apportion said tax for two or more years up to four, and when so apportioned the board of education may borrow money on credit of said tax. The election shall be held in the same manner, except as herein otherwise prescribed, as other special elections for

special city taxes. (*As amended by L. 1881, ch. 70; L. 1889, ch. 220; L. 1894, ch. 454.*)

§ 23 All moneys raised, received, or in any wise belonging to the academy or to the school or district hereby organized, shall be under the control of the board of education; but no moneys raised for a specific or particular purpose shall be applied to, or used for, any other purpose. Said board of education is hereby prohibited from contracting debts for any purpose whatever; and the lands, sites, buildings and personal property belonging to said academy or schools, or used or kept for school purposes, shall be forever exempt from taxation, and from levy and sale on execution. (*As amended by L. 1881, ch. 70.*)

§ 24 The libraries of the several school districts hereby consolidated, shall be subject to the control and direction of said board of education; they shall provide for their safekeeping; may keep separate or consolidate them into one or more school libraries; dispose of any duplicates or unsuitable volumes, and apply the proceeds, together with the library money arising from the common school fund, to the purchase of new books.

§ 25 The board of education may prescribe the form and qualifications requisite to the admission into the Ogdensburg Academy, the course of studies to be pursued, and the textbooks to be used may fix the rates to be charged for tuition to those whose parents or guardians are not actual residents of the district, may demand such tuition bills in advance, and may in their discretion divide the said academy into male and female departments, and may grant diplomas to graduates of said academy. (*As amended by L. 1881, ch. 70.*)

§ 26 The board of education shall have full power and it shall be their duty:

1 To organize as many common schools in the village as shall be necessary for the accommodation of those who attend, and change, consolidate and discontinue them.

2 To lease schoolrooms and furnish the same, to sell or exchange the present academy building and grounds, upon a vote of the majority of all the members of said board; and when authorized as herein provided, to purchase sites and erect schoolhouses and academies.

3 To provide books and stationery for indigent scholars, and all necessary instruments and apparatus for the academy and schools.

4 To prescribe the course of studies in the schools, the textbooks to be used therein, and to do such other acts as will best promote the efficiency and utility of the same.

5 To make rules and regulations for the protection of the buildings, furniture and grounds pertaining to the said academy and schools.

6 To employ teachers and pay the same, to make rules and regulations for the reception of pupils, or their exclusion from school, or their transfer from one school to another, not inconsistent with the general law, securing the freedom of schools to all pupils residing in the district, and to amend or repeal the same or to make others.

7 To sue for and collect in their corporate name all penalties prescribed or authorized by this act; and for all destruction of or injury to any school property.

8 To effect insurance on any or all school property.

9 To make the reports required by law to the school commissioners and Board of Regents.

10 To employ a suitable and competent person to take the census of persons within said district, over 4 and under 21 years of age, and pay him therefor.

11 To cause to be prepared and presented to the board of trustees, between the 1st and 15th days of April in each year, a full report of all the acts of said board, wherein shall be set forth the number, kind and grade of schools kept; the number of scholars, time each has attended and studies pursued; the number of teachers employed and compensation to each; the money received, from what sources derived, the amount disbursed, and how expended, and what sums remaining on hand in each fund; and any other matters connected with the costs and operation of the schools and academy which they may deem proper; and the board of trustees shall cause the same to be published two weeks previous to the annual election, in one of the newspapers published in said village. (*As amended by L. 1881, ch. 70.*)

§ 27 The board of trustees shall cause this act to be published together with such rules, regulations, and by-laws as shall be adopted by the board of education; and any copy of the same or either, duly certified by the clerk of said board under his hand and seal, shall be received as evidence in all courts of justice, with the same force and effect as the originals if produced and duly proved.

§ 28 The acts and decisions of the board of education, and of the superintendent of schools by them appointed, shall be subject to appeal in the same manner as appeals are taken from the acts of school trustees and school commissioners and from the trustees of the Ogdensburg Academy.

§ 29 On the organization of the board of education, the office of "trustee of the Ogdensburg Academy" and "trustee of the school district" in the districts hereby consolidated, and all other officers in said districts shall terminate, except so far as to authorize them to perform the duties imposed by sections 14 and 19 of this act.

§ 30 Whenever the village of Ogdensburg shall be incorporated as a city, with or without additional territory, then this act shall apply to that corporation, the same as now to the village corporation, and common council of said city shall take the place of the board of trustees, and shall be charged with all the responsibilities and duties, and privileges devolving upon said board of trustees by this act. (*As amended by L. 1868, ch. 249.*)

All acts and parts of acts, inconsistent with this act and the acts hereby amended are hereby declared inoperative in, and inapplicable to, the territory comprised within the district by said act organized.

§ 31 The Legislature may at any time, alter, amend, or repeal this act.

§ 32 This act shall take effect immediately.

Chapter 454, Laws of 1893

An act to provide for the election of school commissioners of the city of Ogdensburg, and their term of office

Section 1 There shall be no election of school commissioners in May, 1907. On the first Tuesday after the first Monday in November, in the year 1906, there shall be elected on the same ballot as other city officers, by a plurality vote of electors of the city of Ogdensburg, nine school commissioners, three for terms beginning on the 1st day of June, 1907, and expiring on the 31st day of December, 1908, three for terms beginning on the 1st day of June, 1907, and expiring on the 31st day of December, 1910, and three for terms beginning on the 1st day of June, 1907, and expiring on the 31st day of December, 1912. Three such school commissioners shall be elected biennially thereafter, each for a term of six years from the 1st day of January next following their election, and until the qualification of their successors. The terms of office of all the school commissioners of said city in office on the 31st day of May, 1907, shall expire on that day. The school commissioners elected under the provisions hereof shall continue to constitute the board of education of said city, with all the powers and duties of, and governed by the same provisions of law relating to, their predecessors whose retirement is effected by this act, except as herein otherwise provided. (*As amended by L. 1906, ch. 495.*)

§ 2 If a vacancy occurs in the office of school commissioner otherwise than by expiration of term prior to the time of filing nominations for a city office the board of education may appoint a person to fill such vacancy for a term expiring on the 31st day of December of the year in which the next biennial city election thereafter is held, and at such election, such vacancy if the term of office continues beyond the 31st day of December succeeding shall be filled for the unexpired term. If a vacancy occurs in the office of school commissioner otherwise than by the expiration of term subsequent to the time of filing nominations for a city office and prior to the next biennial city election, the board of education may appoint a person to fill such vacancy for a term expiring on the 31st day of December succeeding the second biennial city election thereafter, unless the term of office sooner expires, and at such election, such vacancy, if the term of office continues beyond the 31st day of December succeeding, shall be filled for the unexpired term. A vacancy in the office of school commissioner occurring before June 1, 1907, shall be filled by the board of education for a term expiring on May 31, 1907. (*As amended by L. 1906, ch. 495.*)

§ 3 Said board of education may call a primary of voters of said city of Ogdensburg, irrespective of party, to meet for the purpose of making nominations for school commissioners of said city. Said primary shall be held not more than forty days nor less than thirty days before any biennial city election, and a certificate of such nominations designating them as citizens' nominations for school commissioners shall be filed with the county clerk of Saint Lawrence county at least twenty-five days and not more than thirty-five days before the election for which such nominations shall be made, and such nomina-

tions shall be treated as a party nomination under the election law, and all the provisions of said election law, applicable to party nominations, not inconsistent herewith, shall be applicable thereto. At the primary held in the year 1906, the duration of the terms of office for which the several candidates are nominated shall be indicated by the voters at such primary, according to the classification mentioned in section 1 hereof, and shall be specified in said certificate. (*As amended by L. 1906, ch. 495.*)

§ 4 So much of chapter 382 of the Laws of the year 1857, entitled "An act in relation to schools and academies in the village of Ogdensburg," and the several acts amendatory thereof or supplemental thereto as conflicts with the provisions of this act, is hereby repealed.

§ 5 This act shall take effect immediately.

Chapter 105, Laws of 1859

An act enlarging the powers of the board of education of the village of Ogdensburg

Section 1 The board of education of the village of Ogdensburg are hereby authorized to complete all or any of the unfinished rooms in the schoolhouses in said village which they may deem necessary, or to rent others or repair or insure said schoolhouses, and to provide the same with suitable furniture. They shall estimate the expense thereof and on or before the 1st day of April thereafter of each year shall certify the amount of such estimate to the board of trustees of said village, and thereupon it shall be the duty of said trustees to report the same to an annual meeting, or to a special meeting of the inhabitants of said village, who are liable to pay taxes for school purposes, and if a vote of a majority of persons attending said meeting be in favor of said tax, it shall be the duty of the trustees of said village to assess the amount of such estimate upon the taxable property of the consolidated school district, to be collected with the general tax; but no such tax shall be raised by vote of a special meeting, unless it shall have been stated in the notice calling such special meeting, that a tax is to be voted upon, and the amount to be raised and for what purpose. The money so raised shall be paid to the treasurer of the village, in a "special fund," to the credit of the board of education, and shall be expended only for the purpose of completing and furnishing the schoolrooms as aforesaid, except as hereinafter provided, and shall be accounted for in the same manner as other moneys paid out by the board of education are by law accounted for.

§ 2 In case the sum estimated and raised as above provided, shall be insufficient to complete, repair, insure or rent, and furnish the schoolrooms as aforesaid, the board of education shall certify to the trustees the amount of the deficiency, and the trustees shall levy the amount thereof along with the next general tax upon the consolidated school district. And in case there shall remain a surplus, the amount thereof shall be certified to the trustees, and the sum shall be abated from the next general tax upon said district, and thereupon the amount of such

surplus may be transferred from the special fund to the "teachers" or "general school fund," and be subject to the order of the board of education for the purposes for which those funds are raised respectively.

§ 3 The trustees of said village, in their discretion, may assess one-half the sum estimated, as provided in the first section of this act to be collected the first year; and the balance of the actual expense may be borrowed, or a liability by contract incurred, and the amount thereof, with interest, shall be collected the following year.

§ 4 This act shall take effect immediately.

Chapter 187, Laws of 1903

An act for the submission to the electors of the city of Ogdensburg, Saint Lawrence county, New York, the question of furnishing free textbooks for the pupils of the school district of said city

Section 1 At the next charter election to be held in the city of Ogdensburg, Saint Lawrence county, New York, on the second Wednesday of May, 1903, the electors of said city are authorized to vote upon the question of furnishing at the expense of such city free textbooks and ordinary school supplies for the use of the pupils of the school district of said city below the academic grade. The officer or officers required by law to provide ballots for such election shall furnish ballots for the use of the electors of said city which shall contain the words "For free textbooks and supplies," and "Against free textbooks and supplies." The city clerk shall publish, in at least two daily papers of the city once a week for three weeks immediately preceding such election, notice that at such election said question will be submitted to the electors of the city. The election officers shall deliver such ballots to the electors voting at such election, and the inspectors of election shall receive and deposit in a separate box prepared for that purpose the votes cast thereon and shall canvass and make return to the common council of the number of such ballots cast thereat in the same manner that they canvass and return other ballots cast for the city officers.

§ 2 If the number of ballots containing the words "For free textbooks and supplies" exceed those containing the words "Against free textbooks and supplies," the board of education of said city shall within ten days after such election submit to the common council an estimate of the amount of money, not exceeding two thousand dollars, necessary to defray the expense of providing and caring for free textbooks and supplies for the pupils of the school district of said city below academic grade, and the common council shall cause such sum to be levied and collected in the same manner as other moneys are now levied and collected in the school district of said city, in addition to and beyond the moneys now authorized to be raised for school purposes, and the board of education shall thereafter include in their annual estimate such sum, not exceeding fifteen hundred dollars, as they may deem necessary to provide for free textbooks and supplies for such pupils, and the common council shall cause the same to be levied and collected in addition to the sum now authorized by law to be annually levied and collected for school purposes.

§ 3 The moneys so levied and collected shall be paid to the treasurer of the city to the credit of the board of education to be known as the free textbook and supply fund, to be used by such board in the purchase of textbooks and supplies for the use of the pupils of the several schools of the school district of said city, and for no other purpose.

§ 4 All books and supplies furnished under the provisions of this act, shall remain the property of the board of education, and the said board may make such rules and regulations concerning the use, preservation, care, return, custody, disposition or sale of such books and supplies by or to the pupils of said schools as they may deem necessary.

§ 5 All acts inconsistent therewith are hereby repealed.

§ 6 This act shall take effect immediately.

OLEAN¹

Chapter 168, Laws of 1882

An act conferring additional powers on the trustees of union free school district number 1 of the town of Olean, Cattaraugus county, and granting additional privileges to said district

Section 1 The trustees of union free school district number 1 of the town of Olean are hereby authorized and empowered to employ in behalf of said district a superintendent of common schools who shall under the direction of said trustees have the general supervision of all the public schools in said district and perform such duties as the said trustees may prescribe.

§ 2 Said union free school district number 1, of the town of Olean, in the county of Cattaraugus, shall upon and after the passage of this act have all the powers, and possess all the privileges conferred upon cities and incorporated villages having a population of 5000 and upwards, by section 6 of title 3 of chapter 555 of the Laws of 1864, entitled, "An act to revise and consolidate the general acts relating to public instruction" as the same was amended by chapter 374 of the Laws of 1876, entitled, "An act to amend section 9 of chapter 667 of the Laws of 1875, entitled, "An act to amend chapter 555 of the Laws of 1864, entitled "An act to revise and consolidate the general acts relating to public instruction."

Chapter 535, Laws of 1915

An act to consolidate and revise the several acts, relative to the city of Olean

§ 133 . . . The city of Olean shall, for all purposes relating to the assessment and collection of taxes, be and constitute a separate town in said county of Cattaraugus. The board of supervisors shall levy upon said city the proportionate share or amount of tax authorized by the laws of this State for the respective towns. Nothing in this act contained shall alter or change the territorial limits of union free school district number 1 of the town of Olean, and such school district shall remain the same as though this act had not been passed, and the board of education of said school district shall continue to levy and collect all school taxes in said district in the manner provided by law, and such school district shall continue subject to all the provisions of law applicable to common schools, and shall exist and be controlled under the general school laws of the State of New York in all respects as in towns. The assessment roll in the city of Olean shall be considered a town assessment roll in relation to all property therein, for assessment and taxation for school purposes; and as regards such school district the city of Olean shall be considered a town, and the common council shall have the same authority as the supervisor of a town. The moneys,

¹ The provisions of the Education Law apply to this city.

however, apportioned to said school district shall be paid directly by the treasurer of Cattaraugus county to the treasurer of said school district upon filing with the treasurer of said county a certificate in writing signed by the president of the board of education of said school district and the clerk of said school district, to the effect that the treasurer of said school district, naming him, has given the security required by law for the faithful discharge of his duties as such treasurer and is entitled to receive all moneys apportioned to said school district.

ONEIDA

Chapter 648, Laws of 1911

An act to revise, consolidate and amend generally chapter 225 of the Laws of 1901, known as "the charter of the city of Oneida," and the several acts amendatory thereof, and repealing certain acts

TITLE XVII

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 240 City, permanent school district
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Section 240 **City, permanent school district.** The public schools within the corporation tax district, including all territory within such district and the residents therein, shall constitute one school district and shall not be subject to alteration. Such district shall be entitled to all the rights, powers and privileges and public moneys and other benefits conferred by law or other State authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities. The schools in said city outside of the corporation tax district shall be under the same supervision and control as other common schools in Madison county, under the general school laws of the State in all respects as in towns.

§ 241 **Board of education.** The affairs of said school district within said city of Oneida shall be managed by a board of five members, to be appointed in the manner provided in this act, which board shall be known and designated as the "Board of education of the city of Oneida." Such board and its successors shall possess all the powers and discharge all the duties imposed by this act, or by any general law of this State relating to school districts in cities, or relating to boards of education of such district, and not inconsistent with the provisions of this act.

§ 242 **Succession to property and obligations.** The title to all real estate and personal property now belonging to any school district wholly within said corporation tax district in said city is hereby vested in the board of education of the city of Oneida, and all moneys and funds belonging to any district wholly within said corporation tax district shall be paid over and delivered to the chamberlain of said city and credited by him to the school fund of the city. All the rights, powers, privileges, contracts, obligations and liabilities of any school district wholly within said corporation tax district are hereby transferred to and vested in and imposed upon said board of education of the city of Oneida as hereby created; and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against the board of education of the city of Oneida, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of education of union free school district number 4 of the town of Oneida or school district number 5 of said town, if this act had not been passed; subject, however, to the provisions of this act.

§ 243 **Election, powers and duties of president.** The members of the board of education shall at their first meeting in March in each year elect one of their members as president, who shall hold said office for the ensuing year. The president shall preside over meetings of the board, and perform such executive acts and duties as required by this act and general laws, and such other lawful business as shall be placed in his charge by said board.

§ 244 **Superintendent of schools.** The said board of education on the first Tuesday of May in the year 1913, and in each third year thereafter, shall appoint a superintendent of schools for the term of three years; such superintendent shall be under the direction of the board of education, which shall prescribe his powers and duties; he shall be paid from the teachers fund a salary, to be fixed by the board of education. Whenever such superintendent shall be appointed, the said school district shall be entitled to the benefits of the provisions of chapter 140 of the Laws of 1910, and the amendments thereto.

§ 245 **Clerk and his duties.** The superintendent of schools shall be clerk of the board of education, and shall act as secretary and keep the minutes of said board, and shall perform such other duties as shall be required by this act and the general school laws of the State, and such other duties as the board may prescribe.

§ 246 **General powers of the board of education.** Subject to the powers and provisions of this act and the general school laws, the board of education of the city of Oneida shall have the power and it shall be its duty:

- 1 To establish and organize in said corporation tax district such and so many free schools as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

- 2 To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

3 To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expenses attending the same.

4 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto are enforced and any violation thereof punished.

5 To contract with and employ all necessary teachers for the schools of the city within said district under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the general school laws of the State and the rules and regulations established by the Department of Public Instruction of the State.

6 To pay the salaries of superintendent of schools and teachers out of any moneys appropriated or provided by law for that purpose.

7 To defray the necessary expenses of the board and district, including the wages of librarian, janitors and other assistants and employees and incidental expenses.

8 To expend all moneys, raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such a manner as may be deemed advisable, but only for the purposes for which the same was raised.

9 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the board of public works and common council for opening streets and public highways.

10 To have, to the exclusion of all boards and officers except the Superintendent of Public Instruction and the Regents of the University of this State, the entire management of the schools of said corporation tax district; from time to time to adopt, alter, modify or repeal, as it may deem expedient, rules and regulations for its organization, government and instruction, for the reception of pupils and their transfer from one schoolroom or schoolhouse to another, for their advancement from class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the district.

11 To allow children or persons nonresidents within the district to attend any of the schools therein under the control of said board, upon such terms as said board may, by resolution, prescribe.

12 To establish and maintain a public school library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

13 Other than as provided by this act to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

14 Other than as provided in this act, to exercise all the powers conferred and all the duties imposed by the general laws of the State applicable to boards of education in cities. The records of the proceedings of said board, or a tran-

script thereof, certified by its president and clerk, shall be received in all the court¹ and places as prima facie evidence of the facts therein stated.

§ 247 **Powers of board of education to raise money for support of schools.** On or before the 10th day of October in each year, the said board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year commencing with the 1st day of January next ensuing for each of the following purposes:

1 For wages of superintendent of schools after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school and of such grade schools as the said board of education may deem necessary and the payment of the teachers thereof and a librarian, after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds with the appendages and appurtenances.

4 For the purchase of fuel and lights and to pay contingent expenses of the district, including the salaries of janitors, assistants, employees, and incidental expenses.

5 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

§ 248 **Board of education budget.** Before the meeting of the board of education at which the aforesaid statement is prepared, the said board of education shall give to the mayor official notice thereof and the mayor shall attend such meeting and be accorded the right of inquiry into all items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the board of education shall have finally determined on the statement of expenses itemized as heretofore indicated it shall present the same to the mayor or acting mayor of the city of Oneida. If the mayor or acting mayor approves such statement he shall sign it and immediately file it with the city clerk; if he disapproves of the same, or any item therein, he shall within five days return the statement, with his objections to the same or to such item indorsed thereon or annexed thereto, to the president of the board of education. Said board of education shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statements as made, it shall stand as if it had been approved by the mayor, and shall immediately be filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection, or the board shall present a new statement; if the mayor approve such new statement he shall sign it and file it with the city clerk. But if he does not approve any item thereof he shall, within twenty-four hours, return the same with his objections as before. The board of education shall continue to present statements as aforesaid until the mayor's approval is obtained or until two-thirds of the members of said board

¹ So in the original.

agree to pass the same over his objections, and said statement when thus approved or passed shall be filed with the city clerk. If the mayor or acting mayor fails to sign a statement of moneys required as herein provided, or fails to return said statement, with his objections thereto, to the board of education within five days after its submission, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is finally filed with the city clerk, the common council of said city shall include in the annual tax and assessment roll for that year the amount specified in said final statement and the same shall be collected by the city chamberlain who shall credit the same to the general school fund of the board of education.

§ 249 **Payment of funds to chamberlain.** All public moneys or funds belonging or appropriated to the use of said school district or to the use of school district numbers 4 and 5 of the town of Oneida, and all public moneys or funds appropriated to the use of the union free school district of the city of Oneida shall be paid to the chamberlain of said city, who shall keep the same separate from the general funds of the city and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the chamberlain signed by the president and clerk of the board of education. Said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person to whom payable. Upon request from said board the chamberlain shall certify from time to time the balance remaining to be collected or paid to the city chamberlain for school purposes; it shall not be lawful for said chamberlain to apply such moneys, or any part thereof, to any other purpose or object.

§ 250 **Powers of board of education to purchase sites or erect school buildings.** Whenever the board of education shall resolve by an affirmative vote of a majority of its members that it is necessary to purchase a site or addition to any site, or to erect any school building, or enlarge any school building already erected, it shall specify in such resolution the ward in which such site is to be purchased or building erected or enlarged, and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the mayor who shall, within thirty days of the receipt of said resolution, call a special election of the electors of said corporation tax district to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided elsewhere in this act, and the expenses of such election shall be paid out of the contingent fund of the corporation tax district. In case a majority of the votes cast be in favor of any of said appropriations, the common council shall borrow, upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds or other evidence of indebtedness in such forms as it may prescribe, at an annual rate of interest not exceeding five per centum, and payable at such times and in such amounts as the common council shall determine. Said bonds or any part thereof

may be sold by the common council in such manner as it may deem best, but at not less than the par value thereof. The proceeds of the sale of such bonds shall be paid to the city chamberlain and shall be expended only for the work or objects for which the same was raised except that the board of education, after completing the work or other objects for which said money may have been raised, may apply any unexpended balance that may remain to any purpose mentioned in section 247 of this act.

§ 251 **Annual report of board of education.** It shall be the duty of the board of education, on or before the 10th day of January in each year, to make to the common council of the city a detailed report of all moneys received by it and from what sources and the manner in which it shall have expended such moneys and the amount provided for and appropriated to school purposes from any source during the last fiscal year of the said board of education; and such report shall be published by the common council in connection with, and as a part of the annual report of the financial transactions of the city, which they are required by law to have printed and circulated. Said board of education shall also make report to the Superintendent of Public Instruction of the State, and such reports shall be made in the manner and at such times as he may direct.

§ 252 **State Superintendent of Public Instruction to apportion State moneys.** It shall be the duty of the Superintendent of Public Instruction of this State to apportion for the use of the said board of education of the city of Oneida such portions of the school, school library, and other public moneys as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Madison county. The said county treasurer of Madison county shall pay over to the city chamberlain of the city of Oneida, for the use of the board of education of said city, such proportion of the school, school library and other public moneys as may be apportioned by law or by the Superintendent of Public Instruction of the State to the board of education of the city of Oneida for teachers' wages, school library and other school purposes.

§ 253 **Common council shall pass ordinances for the protection of school property.** The common council of the city of Oneida shall have the power and it shall be its duty to pass such ordinances and by-laws as the board of education of said city shall report necessary for protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 254 **Charges of misconduct or neglect of any member of board of education.** Charges of misconduct or violation or neglect of duty on the part of any member of the board of education may be presented to said board by any member thereof, or by any elector of the city of Oneida, and such charges shall be duly examined by said board at a regular or special meeting of which the accused member shall have at least five days' notice, but at which meeting said accused members shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, said board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the

meeting, shall be transmitted by the clerk of the board of education to the Superintendent of Public Instruction of the State, and upon his approval of the findings of the board the accused member shall be removed and his place declared vacant.

§ 255 **Report of superintendent of schools.** The superintendent of schools of the city of Oneida shall confer with, and act under the direction of the board of education of said city in the performance of his duties. He shall, subject to the direction of said board, have general control and supervision of the public schools in said city and of the teachers employed therein, and shall on or before the 1st day of July in each year, or at such other time or times as shall be required by said board, report in writing to the board of education on the following subjects:

- 1 The whole number of schools within the jurisdiction of the board of education, their cleanliness and their sanitary condition.

- 2 The repairs or alterations, if any, that are necessary for each of said schools.

- 3 The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary.

- 4 The number of teachers employed in the several schools, their grade of work and their efficiency, with suggestions as to the increase or decrease in the number thereof.

- 5 The number of pupils registered at each school, the average daily attendance and also the number of pupils enrolled in each grade in the several schools.

- 6 Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

- 7 Such other information in relation to the city schools as may be of interest to the city of Oneida.

§ 256 **District a union free school district.** The said district shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Oneida.

§ 19 **Suspensions and removals of appointive city officer.** The mayor, common council and each city board or officer, having appointive powers, may remove any city officer appointed by him or it, for dishonesty, incapacity, neglect of duty, or other irregularities, giving such officers reasonable notice thereof and a reasonable opportunity to be heard, and such officer may be suspended pending such investigations.

Subdivision 7 of section 44, which defines the duty of the common council in relation to the annual tax levy, provides as follows:

- 7 A sum necessary for the purposes and use of the board of education, including the payment of principal and interest upon the bonds heretofore or hereafter

issued for school purposes, falling due during the fiscal year for which tax is levied, to be designated as the school fund.

Section 10 provides for five members of the board of education and for a superintendent of schools. Section 11 provides that a member of the board of education shall be a resident elector and taxpayer of the city. Section 13 provides that there shall be five members of the board of education, that the superintendent of schools and the members of the board of education shall be appointive officers and that the term of office of such superintendent shall be three years and of each member of the board of education five years. Section 15 provides that the term of office of all officers appointed by the mayor shall begin on the 1st of February in the year in which the appointment is required to be made. This section also provides that the term of office of the superintendent of schools shall begin on the 1st day of August in the year in which the appointment is required to be made. Section 20 provides that if a vacancy occurs in an appointive office it shall be filled for the balance of the unexpired term by the same authority and in the same manner as an appointment for a full term. Under section 30 each officer of the city is required to take and file an official oath in accordance with the provisions of the constitution and the public officers law.

ONEONTA

Chapter 454, Laws of 1908

An act to incorporate the city of Oneonta

TITLE IX

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 150 City, permanent school district
- 151 Board of education
 - 152 District board continued a city board; succession to property and obligations
 - 153 Superintendent of schools
 - 154 General powers and duties of the president
 - 155 Clerk and his general duties
 - 156 General powers of the board of education
 - 157 Powers of board of education to raise tax for support of schools
 - 158 Payment of funds to chamberlain
 - 159 Powers of board of education to purchase sites or additions to any site or erect or enlarge any school building
 - 160 Annual report of board of education
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 - 162 Common council shall pass ordinance for protection of school property
 - 163 Filling vacancies
 - 164 Report of superintendent of schools
 - 165 District a union free school district
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Section 150 **City, permanent school district.** The said city shall form a permanent school district and shall not be subject to alteration by the district school commissioner of common schools. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other State authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities.

§ 151 **Board of education.** The affairs of said school district of the city of Oneonta shall be managed by a board of six members, to be appointed in the manner provided in this act, which board shall be known and designated as the "board of education of the city of Oneonta." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this State relating to school districts in cities or relating to boards of education of such districts, and not inconsistent with the provisions of this act.

§ 152 **District board continued as city board; succession to property and obligations.** The present members of the board of education of union free school district number 5 of the town of Oneonta, New York, shall constitute the board of education of said city and shall be members of such board until their

successors are appointed and qualified as provided in this act. The title to all real and personal property now belonging to said union free school district and the title to all other school property, either real or personal, that shall be located within the limits of said city is hereby vested in the board of education of the city of Oneonta, and all moneys and funds belonging to school districts numbers five and eleven shall be paid over and delivered to the chamberlain of said city and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said school districts are hereby transferred to, vested in and imposed upon said board of education of the city of Oneonta as hereby created; and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against the board of education of the city of Oneonta, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of education of said school districts, if this act had not been passed; subject, however, to the provisions of this act.

§ 153 **Superintendent of schools.** The said board of education shall annually appoint a superintendent of schools for the term of one year; such superintendent shall be under the direction of said board of education, which shall prescribe his powers and duties; he shall be paid from the teachers' fund a salary, to be fixed by the board of education. Whenever such superintendent shall be appointed, the said school district shall be entitled to the benefits of section 5 of title 2 of article 1 of chapter 556 of the Laws of 1894.

§ 154 **General powers and duties of president.** The president of the board of education shall preside over meetings of the board when present, and perform such executive acts and duties as is required by this act and general laws, and such other lawful business as shall be given him or her in charge by said board.

§ 155 **Clerk and his general duties.** The superintendent of schools shall be clerk of the board of education and shall act as secretary and keep the minutes of the said board, and shall perform such other duties as may be required by this act and the general school laws of the State and such other duties as the board may prescribe.

§ 156 **General powers of the board of education.** Subject to the provisions of this act and of the general consolidated school laws, the board of education of the city of Oneonta shall have power and it shall be its duty:

- 1 To establish and organize in said city such and so many free schools as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

- 2 To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

- 3 To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages and to defray the necessary expenses attending the same.

- 4 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

5 To contract with and employ all necessary teachers for the schools of the city under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the general school laws of the State and the rules and regulations established by the Department of Public Instruction of the State.

6 To pay the salaries of superintendent of schools and teachers out of any moneys appropriated or provided by law for that purpose.

7 To defray the necessary expenses of the board and district, including the wages of janitors and other assistants and employees and incidental expenses.

8 To expend all moneys, raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such a manner as may be deemed advisable but only for the purposes for which the same was raised.

9 To license, upon the recommendation of the superintendent of schools of said city, all teachers employed in the schools of the city, in the same manner and with like effect in said city as school commissioners of counties, and to fix the grade of state license of teachers that shall be accepted as the minimum requirement for teachers in said city.

10 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor and in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the board of public works for opening of streets and highways.

11 To have to the exclusion of all boards and officers, except the Commissioner of Education and the Regents of the University of this State, the entire supervision and management of the schools of said city; from time to time, to adopt, alter, modify or repeal, as it may deem expedient, rules and regulations for its organization, government, and instruction for the reception of pupils and their transfer from one schoolroom or schoolhouse to another; for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the city.

12 To allow the children or persons nonresident within the city to attend any of the schools therein under the control of the said board upon such terms as said board may by resolution prescribe.

13 To establish and maintain a city school library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

14 Other than as provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

15 Other than as provided in this act to exercise all the powers conferred and all the duties imposed by the general laws of the State applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 157 **Powers of board of education to raise tax for support of schools.** On or before the 15th day of July in each year, the said board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year, which for school and library purposes only shall commence with the 1st day of August next ensuing, for each of the following purposes:

1 For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds, with the appendages and appurtenances.

4 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5 For the purchase of fuel, water, telephone service and lights, to pay contingent expenses of the district, including salaries of janitors, assistants, employees and incidental expenses.

6 For the purpose of paying the interest or principal upon any or all school bonds that may have heretofore been issued by said school districts or either of them, or that may hereafter be issued for school purposes by the common council, and also to pay such other lawful indebtedness as may be incurred for school purposes. Before the meeting of the board of education at which the aforesaid statement is prepared, the said board of education shall give to the mayor official notice thereof and the mayor shall attend said meeting and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the board of education shall finally have determined on the statement of expenses itemized as heretofore indicated, it shall present the same to the mayor or acting mayor of the city of Oneonta. If the mayor or acting mayor approves such statement he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall within five days return the statement with his objections indorsed thereon or annexed thereto to the president of the board of education. Said board shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection and he shall then sign it and file it with the city clerk. But if he does not approve any item thereof he shall, within twenty-four hours, return the same with his objections as before. The board of education shall continue to present statements as aforesaid until the mayor's approval is obtained or until two-thirds of the members of said board agree to pass the same over his objections, and said statement when thus approved or passed shall be filed with the city clerk. If the mayor or acting mayor fails to sign a

statement of moneys required as herein provided or fails to return, within five days after its submission, said statement with his objections thereto, to the board of education said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk, the common council of said city shall then levy as an annual school tax for that year the amount specified in said statement and the same shall be collected by the city chamberlain under the same terms as other taxes, who shall credit the same to the general school fund of the board of education.

§ 158 **Payment of funds to chamberlain.** All public moneys or public funds belonging or appropriated to the use of said school district number 5 of the town of Oneonta shall be paid to the chamberlain of the said city, who shall keep the same separate from the general funds of the city and shall credit to the school funds the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the chamberlain signed by the president; said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the persons to whom payable. Upon request from said board, the chamberlain shall certify, from time to time, the balance remaining to be collected by or paid to the city chamberlain for school purposes; it shall not be lawful for the city chamberlain to apply such moneys or any part thereof to any other purpose or object.

§ 159 **Powers of board of education to purchase sites, or addition to any site or erect or enlarge any school building.** Whenever the board of education shall resolve by an affirmative vote of two-thirds of its members that it is necessary to purchase a site or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased or building erected or enlarged and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the mayor who shall, within thirty days after the receipt of said resolution, call a special election of the electors of said city, to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided elsewhere in this act. In case a majority of the votes cast be in favor of any said appropriations, the common council shall borrow, upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds or other evidence of indebtedness in such forms as it may prescribe at an annual rate of interest not exceeding four and one-half ($4\frac{1}{2}$) per centum, and payable at such times and in such amounts as the common council shall determine. Said bonds or any part thereof may be sold by the common council in such manner as it may deem best, but at not less than the par value thereof. The board of education, after completing the work or other objects for which said money may have been raised,

may apply any unexpended balance that may remain to any object authorized or contemplated by this act.

§ 160 **Annual report of board of education.** It shall be the duty of the board of education, on or before the 1st day of August in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year of the said board of education; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city, which they are required by law to have printed and circulated. Said board of education shall also make report to the Commissioner of Education of the State, and such reports shall be made in the manner and at such times as he may direct.

§ 161 **State Commissioner of Education to apportion State moneys.** It shall be the duty of the Commissioner of Education of this State to apportion, for the use of the said board of education of the city of Oneonta, such portions of the school, school library and other public money, as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Otsego county. The said county treasurer of Otsego county shall pay over to the city chamberlain of the city of Oneonta, for the use of said board of education of said city, such proportion of the school, school library and other public money as may be apportioned by law or by the Commissioner of Education of the State to the board of education of the city of Oneonta for teachers' wages, school library and other school purposes.

§ 162 **Common council shall pass ordinances for protection of school property.** The common council of the city of Oneonta shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the board of education of said city shall report necessary for protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 163 **Filling vacancies.** All vacancies in the board of education, occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled for the unexpired term by appointment by the mayor.

§ 164 **Report of superintendent of schools.** The superintendent of schools of the city of Oneonta shall confer with and act under the direction of the board of education of said city, in the performance of his duties. He shall, subject to the direction of said board, have entire control and supervision of the public schools in said city and of the teachers employed therein and shall on or before the 1st day of July in each year, or at such other time or times, as shall be required by said board, report in writing to the board of education on the following subjects:

1 The whole number of schools within the jurisdiction of the board of education, their cleanliness and their sanitary condition.

2 The repairs or alterations, if any, that are necessary for each of said schools.

3 The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary.

4 The number of teachers employed in the several schools, their grade of work, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

5 The number of pupils registered at each school, the average daily attendance and also the number of pupils enrolled in each grade in the several schools.

6 Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

7 Such other information in relation to the city schools as may be of interest to the people of Oneonta.

§ 165 **District a union free school.** The territory within the limits of the city of Oneonta shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Oneonta.

§ 166 **School districts adjoining city limits.** The remaining portion of said common school district number 11, part of which is by this act included within the limits of the city of Oneonta, shall remain a common school district and shall be designated by the same number as heretofore, and shall be entitled to the public moneys, including the district quota, and shall have and enjoy all the rights and privileges and shall be subject to the liabilities pertaining to common school districts. The board of trustees, or, if there shall be but one trustee, the sole trustee of said district may contract with the board of education of the city of Oneonta to furnish tuition and other school advantages to the school children of said district in the schools of said city. Said tuition and school advantages shall be provided for a sum which shall not be less than the public school moneys received by said district, and said sum shall not be so great as to require a larger ratio of taxation in said common school district than is required in said city for school purposes.

OSWEGO

Chapter 394, Laws of 1895

An act to revise the charter of the city of Oswego

ARTICLE VII

DEPARTMENT OF EDUCATION

Section 156 On or before the 1st day of May, 1899, the mayor of the city of Oswego shall make and file with the city clerk his appointment in writing, of four persons, residents of the said city, who shall be commissioners of free common schools of the city of Oswego, as hereinafter set forth, and who shall constitute the department of education of the said city. The terms of office of the said commissioners shall be six years, except as hereinafter modified. The terms of office of said commissioners shall begin upon said 1st day of May, 1899, and shall end upon the 31st day of December, 1905. Their successors shall be appointed by the then mayor in office on the 1st day of January, next succeeding the 31st day of December, 1905, and the term of each and all succeeding commissioners shall be six years, from the 1st day of January, in the year of their said appointment. In case of the death, resignation or removal of any commissioner during his term of office, the mayor then in office shall, within ten days thereafter, appoint a successor to such commissioner for the remainder of the unexpired term of the outgoing commissioner. Every commissioner of free common schools of the city of Oswego under this act shall continue in office after the expiration of his term of office as herein designated, until his successor is duly appointed and has qualified. The office of commissioner of common schools of the city of Oswego is hereby abolished, to take effect on the 30th day of April, 1899. The commissioners of free common schools shall serve without compensation. (*As amended by L. 1899, ch. 304.*)

§ 157 A majority of the commissioners of free common schools, forming the department of education shall constitute a quorum. At the first meeting of said department, which shall be held within ten days of their appointment, and annually thereafter in January, at their annual meeting, they shall elect one of their number president of the department, and whenever he shall be absent a president pro tempore may be appointed. (*As amended by L. 1899, ch. 304.*)

§ 158 The annual meeting of said department shall be held on the second secular day of January in each year. The department shall also meet for the transaction of business as often as once a month and may adjourn for any shorter time. Special meetings may be called as often as necessary by the president, with the written concurrence of two members of the department, or, in his absence or inability to act, with the like concurrence of any three members of the department, by causing a written or printed notice of such meeting, signed

with the names of the members calling the same, to be given personally to each member of the department, or left at his last place of residence, at least twenty-four hours before the hour for such special meeting. Such notice shall specify the object of such special meeting, the action of which shall be limited to the object so specified. (*As amended by L. 1899, ch. 304.*)

§ 159 Any woman who is a resident taxpayer of the city of Oswego and assessed upon the last preceding general assessment rolls thereof for real or personal property to the amount of two hundred and fifty dollars, or is the wife of a man who is a resident of said city and who is assessed upon said rolls for a like sum is eligible to appointment as a commissioner of free common schools of said city. (*As amended by L. 1899, ch. 304.*)

§ 160 The commissioners of free common schools shall have the power and it shall be their duty to elect a superintendent of free common schools of the city of Oswego, who shall be ex officio, the secretary of the department of education of said city. The term of office of such superintendent shall be four years, and his salary shall be eighteen hundred dollars per annum, payable monthly out of any moneys or funds belonging to said department, legally applicable thereto. The first election of such superintendent of free common schools of the city of Oswego shall be had within thirty days after July 1, 1900, and within thirty days after the 1st day of July, every four years thereafter, and his term of office shall commence on the first day of the month next succeeding his election, and shall continue for the term of four years, from the 1st day of July in the year of his appointment and until his successor has been elected and has qualified. In case of a vacancy in the office of superintendent of free common schools of the city of Oswego, a successor shall be elected in the same manner for the unexpired term, which election shall be had within one month after such vacancy shall have occurred. In case of a vacancy in the office of superintendent of free common schools of the city of Oswego before July 1, 1900, the department of education shall fill the vacancy so occurring by the election of a superintendent of free common schools for said city for the term ending July 1, 1900, and the superintendent so elected shall hold said office until his successor is duly elected and qualified. Before any such election of any superintendent shall take effect for any purpose, a certificate in writing of such election, signed by a majority of the commissioners of free common schools of the city of Oswego, then legally in office, shall be made and filed in the office of the clerk of the city of Oswego, and such superintendent elect shall duly take and sign the constitutional oath of office and file the same with said city clerk of Oswego city. If in any year when a superintendent of free common schools is to be elected, as aforesaid, or a vacancy for any cause in said office is to be filled, the said department shall fail, neglect or refuse to so elect a superintendent for the period of six weeks after the term within which such election is required to be had, such failure, neglect or refusal to elect such superintendent shall be certified by the department or the mayor of the city of Oswego, to the State Superintendent of Public Instruction, who shall there-

upon give notice in writing to the members of said department of the time and place of a meeting of said department, to be held in the city of Oswego, at which he will attend, and which meeting it shall be the duty of said commissioners to attend. If at said meeting, so called by said State Superintendent of Public Instruction, said department still fail, neglect or refuse to elect a superintendent of schools for said city, then, in that case, said State Superintendent of Public Instruction may cast a ballot for said superintendent of schools in said city, and if a choice is not thereby secured by three votes for the same candidate, then the State Superintendent of Public Instruction may, by a written appointment, signed by him as State Superintendent of Public Instruction, designate and appoint a superintendent of schools for said city, with the same force and effect as if said appointee had been duly elected by said department. Such written appointment shall be filed with the city clerk of the city of Oswego. (*As amended by L. 1899, ch. 304.*)

§ 161 No person elected superintendent of free common schools of the city of Oswego shall be removed from his office except for cause, upon written charges and specifications thereof, served upon him, and after due trial before the said department of education, and conviction. On such trial counsel shall be allowed such superintendent without expense to the city of Oswego, and the city attorney shall attend and act for the said department, if desired. It shall be necessary that three in number of the commissioners of free common schools of the city of Oswego, then duly and legally in office, shall concur in voting for the removal of said superintendent before removal can be had, and after such trial and conviction. (*As amended by L. 1899, ch. 304.*)

§ 162 No person shall be eligible for election to or to hold the office of superintendent of free common schools of the city of Oswego unless he or she shall have had five years' actual experience as a teacher, either in the free common schools of the State of New York, or elsewhere in free common schools of equal grade and requirements, or has acted as superintendent or principal of such schools, or taught for a like period in a college, all of such service having been within the past fifteen years; each year of acting as such superintendent or principal, or of teaching in any college to count as one year of actual teaching. Nor shall any person be eligible for election to or to hold the office of superintendent of free common schools of the city of Oswego unless he or she be of mature age, good mental and bodily health and of unblemished character and reputation. (*As amended by L. 1899, ch. 304.*)

§ 163 The duties and powers of such superintendent of free common schools of the city of Oswego shall be as follows:

- 1 He shall keep full and regular books of account of all business and financial transactions of the said department and an accurate account of each separate fund of said department, subject to warrants, showing the condition of the same, the amount of warrants drawn against it and the unexpended balance, at all times.

- 2 He shall keep a full record and report of all meetings and proceedings of

said department, and shall be present at all meetings and act as secretary of said department, and shall perform such other and further duties as secretary of the department of education, as may be required of him by said department of education, or required by the provisions of this act, or of the Consolidated School Law of the State of New York. All records of said department, or a transcript thereof, duly certified by said secretary, shall be received in all courts of the State of New York, as prima facie evidence of all the facts and matters and things therein set forth; and such records and all books, accounts, vouchers and papers of said department shall at all times be subject to the inspection of the mayor or common council, or a committee thereof.

3 The said superintendent shall have exclusive control of all the teachers employed in the free common schools of the city of Oswego, and shall have exclusive power and authority to select, nominate, dismiss, transfer, discharge, suspend, fine, grade, regrade and control all of said teachers, and, in his discretion, do any and all such other matters and things in and about the force and personnel of the teachers in the free common schools of the city of Oswego as, in his judgment, will tend to improve the efficiency of the said free common schools and the teachers employed therein, and as will be to the benefit and welfare of the scholars in attendance at such schools. It shall be the duty of the said superintendent, however, in so far as is practicable, in his selection and nomination of teachers, to select and nominate the same solely with regard to and upon individual merit, and all other things being equal, to give preference in such selection and nomination to citizens of the city of Oswego. Only such number of teachers as may be fixed and determined by the department shall be legally selected or nominated by said superintendent. The persons holding either of the positions of teacher, janitor, truant officer, superintendent of schools and secretary of the department of education, employed by the department of education, or in either of said offices or employments when this act takes effect shall continue in such office or employment under this act and subject to its provisions, until legally removed therefrom and their successor or successors duly appointed or elected and qualified.

4 Only such teachers as are qualified under the rules and regulations prescribed by and contained in the Consolidated School Law of the State of New York, or prescribed by the Superintendent of Public Instruction of said State, for governing the examination and licensing and qualification of teachers, shall hereafter be eligible to selection, nomination and employment in the free common schools of the city of Oswego, provided, however, that any teacher now employed in the public schools of said city shall be eligible for such appointment and employment, and the superintendent shall prepare and at all times keep a list of all persons so as above eligible to selection, nomination and employment as teachers, who have applied to him for selection, nomination and employment, and selection and nomination shall be made by him from the names upon said list. And the person or persons so selected and nominated shall forthwith be by said department of education employed as a teacher or teachers in the free com-

mon schools of the city of Oswego. Should said department of education fail neglect or refuse to employ the teacher or teachers so selected and nominated by said superintendent, for the space of ten days after said selection and nomination shall be filed with the department of education in writing, then and in that event, and on the expiration of said period of ten days such written selection and nomination shall in all things and to all intents and purposes be equivalent to the employment by the department of education of such teacher or teachers so selected and nominated.

5 All selections and nominations to and for employment so as aforesaid, hereafter made by said superintendent to the department of education, and employment thereunder, shall in the first instance be made for the term of not exceeding one year, and if at the end of such term it is found by the said superintendent that the teacher or teachers thus nominated, selected or employed, has answered all requirements necessary to an efficient and capable teacher, to his satisfaction, then said superintendent may reselect and renominate said teacher or teachers for employment by the department of education to serve during the pleasure of said superintendent.

6 The present system of text or school books, now in use in the free common schools of the city of Oswego, shall not be changed or new text or school books introduced, except upon the recommendation and consent of the superintendent of free common schools of said city. The curriculum of studies to be pursued in said free common schools of said city shall be fixed and may be changed by the said department of public instruction, only upon recommendation and consent of the said superintendent of free common schools of said city. (*As amended by L. 1899, ch. 304.*)

§ 164 The books of the common school library of the city, now deposited and kept in the building of the Oswego City Library, in said city, may remain there at the pleasure of said department of education and subject to its control. Said department may designate the librarian of the said Oswego City Library to have the custody and care of the said common school library, and may limit and prescribe his powers and duties with respect thereto and provide for his compensation. (*As amended by L. 1899, ch. 304.*)

§ 165 The common council of the city shall have power, and it shall be their duty, subject to the limitations contained in the next section, to raise from time to time by tax, such sums as may be determined and certified by the said department of education to be necessary and proper for any or all of the following purposes:

- 1 To purchase, lease or improve sites for schoolhouses.
- 2 To build, rebuild, purchase, lease, enlarge, alter, improve and repair schoolhouses, and their outhouses and appurtenances.
- 3 To purchase, exchange, improve and repair school apparatus, books, furniture or fixtures and appendages; but the power herein granted shall not be deemed to authorize the furnishing class or textbooks to any scholar or child whose parents or guardians are able to furnish the same.

4 To procure fuel, and defray the expenses of the free common schools of Oswego city, and the expenses of the school library of the said city, and all other necessary contingent expenses of said department, including the salary of the superintendent and secretary of said department.

5 To pay the wages of teachers legally selected, nominated, appointed and employed under the provisions of this act, after the application of public moneys, which may by law be appropriated and provided for that purpose. The amount to be raised for the foregoing purposes in each year, except in the years 1899 and 1900, as hereinafter provided, shall not be less than twenty-five thousand dollars, nor more than forty-five thousand dollars, which amount shall be levied and collected by the common council at the same time and in the same manner as the other general taxes of this city are levied and collected, and when collected shall be known as the school fund. The warrant issued to the city chamberlain by the mayor for the collection of such taxes shall specify what proportion of such taxes are for general city purposes and what proportion are for the support of the schools of said city; and the city chamberlain shall designate the part thereof collected for the support of said schools, and shall credit the same to the department of education as a part of the public school fund of the said city, as hereinafter provided. The common council are authorized and directed to borrow from time to time in anticipation of the collection of the moneys hereby authorized to be raised or of the receipt of the State moneys, such amount as shall be certified to them by the resolution of the department of education to be necessary for the use of said schools, subject to the provisions and limitations of this act. The interest or discount paid in effecting such loan shall be paid by the department as one of the contingent expenses of said schools. (*As amended by L. 1899, ch. 304; L. 1903, ch. 249.*)

§ 166 The department of education is expressly prohibited from purchasing or contracting for, or paying for any work, labor, services, materials or supplies (excepting only the employment of teachers and janitors and the election of a superintendent of schools of a truant officer by the department) except as herein specifically set forth. Whenever any materials, supplies, work, labor or services are required for the use or benefit of the free common schools of the city, a detailed statement of such requirement or requirements shall first be presented to the department of education at a regular or special meeting thereof, signed by the secretary of said department or by the committee or member of said department having knowledge of such requirement or requirements. If, in the opinion of the said department, as evidenced by its vote at such meeting, the said work, labor, materials, services or supplies are necessary and proper to be had for the benefit of said department, then and in that case a copy of the said detailed statement of work, labor, services, supplies or materials shall thereupon be made and given by the secretary of said department to at least three responsible persons, qualified to bid upon the same, and to as many more responsible and qualified persons as shall request a copy thereof, requesting written bids upon such labor, services, supplies, work or materials as shall be set forth in said

statement. And if such work, labor, services, materials or supplies will exceed in value the amount of fifty dollars, then a brief notice requesting bids upon the same, to be set forth more fully in specifications, to be had upon application to the secretary of said department, shall be published by said secretary for three days in each of the two official papers of the city of Oswego. The lowest responsible bid or bids for any such work, labor, services, materials or supplies shall be accepted by the department of education at a regular or special meeting, and a contract or contracts thereunder be executed or written orders therefor be given by direction of the department of which contract or order copies shall be kept in the office of the department; except that the said department shall have the right to reject any and all bids, and ask for other bids therefor. All betterments and repairs to schoolhouses, outhouses, fixtures or furniture, and all new building, fixtures or furniture shall be had and done under the provisions of this section. (*As amended by L. 1899, ch. 304.*)

§ 167 The department of education shall annually, on or before the 1st day of May, submit to the common council an itemized estimate and requisition of and for the several amounts required by it for the various matters, funds and purposes, as in this act provided, for the maintenance of the free public schools of said city, and if the sum granted by the said common council pursuant to said estimate and requisition shall be an entire and gross sum, the department of education shall forthwith apportion such entire or gross sum among and to the various funds, matters and purposes mentioned in said estimate and requisition, and the said superintendent shall forthwith enter upon the financial books of said department such sums so apportioned to the credit of the particular fund, matter or purpose in whose favor such gross sum was so apportioned. The same course and method of procedure shall obtain and be pursued by the said department of education and by said superintendent, touching any other gross sum (except public moneys, which may by law be appropriated and provided for the payment of teachers' wages) received by said department from any source. Should the common council apportion the sum or sums it may grant upon the said estimate and requisition of the said department of education, then the sum or sums so and as apportioned and granted by said common council, shall forthwith be credited by the said superintendent to the various funds to which the same are or shall have been so apportioned and granted by the said common council. Whenever said apportionment shall have been made, whether by the common council or by the department of education, the person, party or body making such apportionment, shall without unnecessary delay notify the city chamberlain of the city of Oswego of such apportionment, by a writing, stating the fact of such apportionment, the items of the same, the several amounts apportioned to each item or fund, and thereupon the said city chamberlain shall, upon proper books contained in his office, open an account with each several item or fund mentioned or contained in said notice so served upon him. Orders may be drawn on account of said items or funds by the department of education upon the city chamberlain, and each order so drawn shall specify distinctly upon the face thereof for what

purposes and against what particular fund or item the same is drawn; and the said department of education is expressly forbidden to overdraw or attempt to overdraw either or any of said several items or funds, and the said city chamberlain is expressly forbidden to pay any order so drawn by said department of education which overdraws in whole or in part the item or fund against which the same is drawn; nor shall any moneys be diverted from one item or fund to another item or fund after the apportionment above referred to has been made, by either the department of education or the city chamberlain, upon any pretext whatever. Any violation of the provisions of this section by the said department of education or any member thereof, or by the said city chamberlain, is a misdemeanor and punishable as such. Public moneys that may be received by the department of education, and which by law may be or have been appropriated and provided for the payment of teachers' wages, or for any other purpose, shall be deposited with the said city chamberlain by the department of education to the credit of the fund for teachers' wages, or to the credit of the particular purpose for which the said moneys were appropriated, and can only be drawn on by said department for the payment of teachers' wages, or for such other purpose as said funds have been specially deposited for, and such orders paid by the city chamberlain for the like purpose. It shall be a misdemeanor and punishable as such to overdraw, or for any member of the department of education to vote to overdraw, or to vote in such a manner as to overdraw, or to contribute to an overdraft of any of the said funds, credits, items or matters of said department. The commissioner or commissioners voting for such overdraft or whose vote or votes contribute directly or indirectly to affect such overdraft shall jointly and severally be liable to an action in favor of the city of Oswego as plaintiff, to recover the amount of any such overdraft or overdrafts, with interest from the day of the meeting or session at which said overdraft or overdrafts were voted or occasioned. And it is hereby made the duty of the city attorney of the city of Oswego, upon being notified by the mayor of any violation of this section by any commissioner or commissioners, to immediately bring action against said commissioner or commissioners of free common schools, in the name of the city of Oswego as plaintiff, to recover the amount of such overdraft or overdrafts and interest upon the same; and upon the trial of any such action in any court in the State of New York, the minutes of said department or a transcript thereof signed by the secretary of said department shall be prima facie evidence of all the facts and matters and things contained therein; provided however that the mayor and city chamberlain by joint consent thereto in writing may transfer any available surplus from one of said funds or credits to another of said funds or credits upon request of the department of education by resolution duly passed showing necessity for such transfer to the satisfaction of the mayor and city chamberlain. (*As amended by L. 1899, ch. 304.*)

§ 168 The said department shall have power, and it shall be their duty :

1 To organize and establish such and so many schools in said city, including

the common schools now existing therein, as they shall deem requisite and expedient, and to alter or discontinue the same.

2 To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses, and to fence and improve them as they may deem proper.

3 Upon such lots and sites owned by said city, to build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances, as they may deem advisable.

4 To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools and defray the contingent expenses of the school library.

5 To have the custody and safekeeping of the schoolhouses, outhouses, books, furniture and appurtenances and to see that the ordinances of the common council in relation thereto be observed.

6 To contract with and employ all teachers in said schools subject to the selection and nomination by the superintendent of schools as hereinbefore provided.

7 To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools in said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by this act, by tax upon said city.

8 To defray the necessary and contingent expenses of the department, including the annual salary of the superintendent of the department.

9 To have in all respects the supervision of the free common schools of the city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, or the reception of pupils and their transfer from one school to another, and generally for their good order, prosperity and utility, subject, however, to the powers by this act conferred upon the superintendent of schools of said city.

10 Whenever, in the opinion of the department of education, it may be advisable to sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the common council.

11 To prepare and report to the common council such ordinances and regulations as may be necessary and proper for the protection, safekeeping, care and preservation of schoolhouses, lots and sites and appurtenances, and all the property belonging to the city connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually on or before the 1st day of May, in each year, to determine and certify to the said common council the sum, in their opinion, necessary or proper to be raised for the purposes specified in this title, under the provisions of this act, for the fiscal year commencing on the 1st day of January, preceding, specifying the amount required for each of said purposes separately.

12 To cause an enumeration of all the children between the ages of 5 and 21 years residing in said city on the 30th day of June next preceding, to be made between July 1st and August 1st in each year.

13 Between the 1st day of August and the 1st day of September in each year,

to take and transmit to the Superintendent of Public Instruction a report, in writing, bearing date the 1st day of August in the year of its transmission, and stating:

1 The number of schoolhouses in said city, and an account and description of all common schools kept in said city during the preceding year, and the time they have severally been taught, the number of children taught in said schools, respectively, and the number of children over the age of 5 years and under the age of 21 years residing in said city on the 30th day of June in each year.

2 The whole amount of school moneys received by the chamberlain of said city during the preceding year, distinguishing the amount received by the city chamberlain from the city tax and from any other sources.

3 The manner in which said sums have been expended, and whether any and what part remains unexpended, and for what cause.

4 The amount of moneys received for tuition fees from foreign pupils during the year, and the amount paid for teachers' wages in addition to the public moneys, with such other information relating to the common schools of said city, as may from time to time be required by the State Superintendent of Public Instruction. *(As amended by L. 1899, ch. 304.)*

§ 169 All moneys raised by virtue of this act or received from the State or from any other source for the use of said schools shall be paid to the city chamberlain of Oswego for the use of said schools, and shall be credited by him to the department of education, and shall be known as the public school fund of said city, and shall be paid out by him only upon drafts drawn upon him, signed by the president and countersigned by the secretary of said department, which drafts shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be made payable to the person or persons entitled to receive the money thereon, and shall express the purpose for which such money is to be paid, and no interest shall be paid by said department upon or on account of any drafts drawn by said department or by its authority. The secretary shall keep an accurate account of all drafts so drawn in a book to be kept by him for that purpose, and shall report at each monthly meeting of the department the amount of drafts drawn from the commencement of the fiscal year to the date of such report. The city chamberlain shall also report to the department whenever required by it the condition of the public school fund in his hands. *(As amended by L. 1899, ch. 304.)*

§ 170 It shall be the duty of said department in all its expenditures and contracts to have reference to the amount of moneys which shall be subject to its order during the then current year, and not to exceed that amount. The State school moneys appropriated for the use of the schools of said city shall belong to the fiscal year in which the same may be received by the city chamberlain.

a Each school commissioner shall visit all the schools in said city at least twice in each year of his official term; and the said department of education shall provide that each of said schools shall be visited by a committee of three or more of their number at least once in each term.

b The said department of education shall have power to allow the children of persons not resident in said city to attend the schools of said city, under the control and care of said department upon such terms as said department shall by resolution prescribe, fixing the tuition which shall be paid therefor, to be collected in such manner as said department shall direct, and immediately paid to the city chamberlain for the use of the said department. (*As amended by L. 1899, ch. 304.*)

§ 171 The said commissioners of free common schools shall be trustees of the school libraries in said city, and all the provisions of law which now are or hereafter may be passed relative to school district libraries shall apply to said commissioners in the same manner as if they were trustees of a school district comprehending said city. They shall also be vested with the same discretion as to the disposition of the moneys appropriated by the law of this State for the purchase of libraries which is therein conferred on the inhabitants of school districts. It shall be their duty to provide a room or rooms and the necessary furniture therefor. The librarians shall report to the department the condition of the city library or the libraries under their charge, and the said department or superintendent thereof, under the direction and by the resolution of said department, may make all purchases of books for said library or libraries, and may direct the mode of their distribution, and may cause to be repaired damaged books belonging thereto, and may sell any book in said library or libraries that may be deemed useless and apply the proceeds to the purchase of other books for said library or libraries. (*As amended by L. 1899, ch. 304.*)

§ 172 The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances, and all other school property in this act mentioned, shall be vested in the city of Oswego, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity, shall be able to take, hold and dispose of any personal or real estate transferred to it by grant, gift, bequest or devise, for the use of the free common schools of said city, whether the same be transferred in terms to said city by its proper style or by any other designation, or to any person or persons or body for the use of said schools. (*As amended by L. 1899, ch. 304.*)

§ 173 The common council of said city shall, upon the recommendation of said department of education, sell any of the schoolhouses, sites, lots or any of the school property now or hereafter belonging to said city, upon such terms as the common council shall deem reasonable. The proceeds of all such sales shall be paid to the city chamberlain of said city, and shall be by said department expended in the purchase, repairs or improvement of schoolhouses, lots, sites or school furniture, apparatus or appurtenances.

§ 174 The common council shall have power and it shall be its duty to pass such ordinances and regulations as the said department of education may report as necessary for the protection, preservation, safekeeping and care of the school-

houses, lots, sites, appurtenances and appendages, libraries and all necessary property belonging to or connected with the schools of said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in this act; and all such penalties shall be collected in the same manner that the penalties for the violation of the city ordinances are by law collected, and when collected shall be paid to the city chamberlain of the city, to the credit of the said department of education, and shall be subject to their order in the same manner as other moneys raised pursuant to the provisions of this act.

§ 175 No officer of said department of education, or any other person, shall have power to make or shall make any purchases, create any liability, or contract any debt on the part of said department, unless specifically authorized by the said department or by this title so to do, and no account, claim or demand shall be audited, allowed or paid by the said department, unless the same was so authorized, nor unless the same shall be verified in the same manner that town accounts are required to be verified. The superintendent of the said department shall have power to administer any oath or take any affidavit in respect to any matter relating to the business of said department or to the affairs of the common council of said city. (*As amended by L. 1899, ch. 304.*)

§ 176 The department of education of the city of Oswego shall not purchase and shall have no power to purchase lots or sites for schoolhouses, or to build or enlarge schoolhouses upon lots or sites now or hereafter owned or acquired by said city, unless three-fourths of all the members of said department shall vote in favor of such purchases, building or enlargement. (*As amended by L. 1899, ch. 304.*)

§ 177 The department of education is hereby authorized and directed to pay all claims and demands duly audited by it only by warrants drawn on the city chamberlain against funds in his hands subject to the drafts of such department, signed by its president and countersigned by its superintendent; and every warrant so drawn shall be made payable to the order of the person entitled to receive the money thereon. In case of the absence, death or inability of the superintendent of free common schools to countersign any of the above mentioned warrants, then said warrants shall be countersigned by a majority of the members of the said department. (*As amended by L. 1899, ch. 304.*)

PLATTSBURG

Chapter 269, Laws of 1902

An act to incorporate the city of Plattsburg

TITLE VIII

DEPARTMENT OF PUBLIC INSTRUCTION

Section 98 All the territory included within the boundaries of the city of Plattsburg shall hereafter constitute a separate school district within this State and shall be designated as "the school district of the city of Plattsburg." It may bear such other additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred by law or other State authority upon school districts and shall be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to union free school districts, except as otherwise hereinafter provided.

§ 99 The affairs of said school district of the city of Plattsburg shall be managed by a board of fifteen members to be constituted as follows: five of such board to be elected by the trustees of the Plattsburg Academy and ten to be appointed by the mayor of the city of Plattsburg, with the approval of the common council, as follows: the present members of the board of education of the present village of Plattsburg are hereby continued in office until the 1st day of August in each year during which their term of office would have respectively expired. The mayor within sixty days after the passage of this act shall appoint five trustees, to serve as follows: one until the 1st day of August, 1902, and one to serve respectively for a period of one, two, three and four years from said 1st day of August. Thereafter the mayor of such city, with the approval of the common council, shall annually appoint two trustees to serve for a period of five years. The trustees of Plattsburg Academy shall annually appoint one member of such board to serve for a period of five years. The said trustees shall meet at the common council chamber in said city at eight o'clock in the evening of the third Tuesday of May, 1902, and shall organize as a board, and shall provide and appoint a place for its further meetings. Thereafter, said board of education shall hold their annual meetings on the second Monday of January of each year, for the election of officers. They shall select by ballot from their number, a president, vice president and a clerk. They shall also appoint a superintendent of schools of the city and perform the duties of supervision and all such other duties as the board shall from time to time direct, and shall be allowed such compensation as the said board may determine. He shall also examine and license, under the statute and the rules and regulations established by the State Superintendent of Public Instruction, teachers employed in the public schools in said city. The said

president, vice president and clerk shall hold their office for one year, and until their successors shall have been duly appointed. (*As amended by L. 1903, ch. 449.*)

§ 100 The city chamberlain shall be the treasurer of said board of education, and shall possess all the powers and duties of supervisors of towns, with reference to the gospel and school money belonging to the city of Plattsburg, and shall have exclusive control of the same. Meetings of said board shall be held at least once in each month. At each of said meetings, there shall be appointed one or more visiting committees, whose duty it shall be to visit every school in the city at least once, and to report upon the condition and work of the schools at the next meeting of the board. A majority of trustees in office shall constitute a quorum of the board. (*As amended by L. 1903, ch. 449.*)

§ 101 In case any vacancy shall occur in the office of trustee, by reason of death, resignation, removal from the city or refusal to qualify or serve, or from any other cause, the mayor in case such vacancy shall arise from those appointed by him may, with the approval of the common council make an appointment to fill such vacancy, and the person so appointed shall hold office for the unexpired term of the person to supply whose place, he shall be appointed; and in case a vacancy shall arise in those selected by the trustees of the Plattsburg Academy, the remaining members of the board, selected by such academy board, may make an appointment to fill such vacancy for the unexpired term of the person to supply whose place he shall be appointed. (*As amended by L. 1903, ch. 449.*)

§ 102 All property, both real and personal, now vested in and belonging to the schools in any district embraced within the city of Plattsburg, as hereby constituted, shall pass to and become vested in the board of education created by this act. And all moneys and funds belonging to said district shall be paid over and delivered to the chamberlain of said city and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said union free school district are hereby transferred to, vested in and imposed upon said board of education of the city of Plattsburg, as hereby created. And the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be in force by or against the board of education of the city of Plattsburg and its successors in the same manner and with a like effect as though this act had not been passed — subject, however, to the provisions of this act.

§ 103 A trustee duly elected or appointed, who declares that he will not accept or serve in the office of trustee, or who refuses or neglects to attend three successive stated meetings of the board, without rendering a good and valid excuse therefor to the board, vacates his office for refusing to serve.

§ 104 Neither the mayor nor any member of the common council shall hold the office of a member of the board of education under this act.

§ 105 The district hereby created shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of general law, not inconsistent with the provisions of this

act, applicable to school districts, whose limits correspond with any incorporated village or city, and the boards of education therein and the corporate authority of such cities and villages, are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Plattsburg.

§ 106 The board of education shall, on or before the 15th day of October in each year, make to the mayor and common council of the city of Plattsburg, an annual report to the 1st day of August next preceding, setting forth the number of children of each school under its charge, a statement of all the liabilities and expenses incurred with all the disbursements made by it, during the preceding year, and all other matters of interest relating to the schools. The common council shall cause such report to be published in the official newspapers of the city of Plattsburg, the expense of such publication to be audited by the board of education and paid out the school fund. (*As amended by L. 1904, ch. 319.*)

§ 107 The said board shall also, on or before the 15th day of October, in each year, state the amount of money to be raised, which when added to the money annually apportioned to the said schools of said city out of the funds belonging to the State or any other funds available therefor, will, in its judgment, be necessary to support all the schools under its superintendence for the ensuing current year, and for the furtherance of any of the powers vested in it by law. The said resolution shall set forth, in a detailed statement, the various purposes of anticipated expenditure and the amount necessary for each. A copy of such resolution shall be certified by the president and clerk of said board, under the seal of said board and delivered to the mayor and common council of said city. If the mayor approves such statement, he shall sign it and immediately file the same with the city clerk. It shall be the duty of the common council to levy and collect annually such amount as the board shall have determined and the mayor approved at the same time and in the same manner as other general city taxes are levied and raised for the ensuing year, and such common council shall have no power to withhold or refuse to levy and collect by tax, such sums so determined by such resolution to be necessary for teachers' wages, for superintendence, for the ordinary contingent expenses, including necessary repairs to all the structures belonging to the city for supporting the schools, for stationery and books and for the expenses of said board of education, in accordance with the estimate thus approved by the mayor. In case the mayor shall disapprove of any of the items embraced in the estimate so presented to him, he shall, within five days after its receipt, state in detail his objections to each item so refused and the reason of such objection and refusal as to each item and file the same with the clerk of the board of education, and the board of education shall immediately publish such communication. Said board shall then proceed to reconsider such estimate, and if it agrees by a vote of two-thirds of the members thereof to sustain the estimate as made, it shall stand as if it had been approved by the mayor, or if said board do not agree to sustain the estimate as made, it shall be so modified as to conform to the views expressed by the mayor in his objection, and in either event, shall be again

certified by the president and clerk of said board to the common council. And the common council of said city shall include in the annual tax and assessment roll for that year, the amount specified in said original or amended item, and the same shall be collected by the city chamberlain who shall credit the same to the general school fund. (*As amended by L. 1904, ch. 319.*)

§ 108 After the said board of education shall have finally delivered to the mayor and common council, by filing with the city clerk a certified copy of the resolution finally determining the amount of the money to be raised as prescribed herein, the said board of education shall thereupon be authorized to borrow upon the credit of the city of Plattsburg, such money as such board shall determine to be necessary for the support and maintenance of the schools in anticipation of the tax to be raised for that purpose in the current year. Such loans shall be evidenced by the note of the city of Plattsburg, which shall be signed by the president and clerk of said board, sealed with its corporate seal and shall be conditioned that the city of Plattsburg will pay the principal named therein with interest at a rate specified therein, not greater than the legal rate of interest, and shall mature and be paid by the city chamberlain at the time therein mentioned, not later than the close of the then fiscal year. The interest on said notes shall be paid by the city of Plattsburg and charged against any moneys due, or to become due to the board of education from any appropriation made, or to be made to said board. The city clerk upon the request of the board, shall countersign the same, and affix the corporate seal of the city thereto, and thereupon the same shall be a binding obligation against the city. The city chamberlain shall keep a separate account of all school moneys received by him, whether from State authorities, local taxation or any other source, and shall pay out the same only upon warrants signed by the president and clerk of said board of education. Such warrants shall be drawn only by the authority of the board of education, and only as the said money shall be actually needed for disbursement. The city of Plattsburg shall be responsible to the board of education for the faithful performance by the city chamberlain of the duties of the treasurer of the said board of education. (*As amended by L. 1904, ch. 319.*)

§ 109 Whenever said board of education shall have determined by resolution an amount of money to be raised for new sites or buildings and furniture and fixtures therefor, or for repairs or improvements to buildings or grounds, which sum shall in any one year exceed the sum of five thousand dollars, the said board of education shall present such estimate to the mayor and common council of the city as required for other expenditures by section 107 herein, and the same course shall be followed with reference to such proposed expenditure in all respect as is provided for in said section 107. And when the board of education shall have finally certified such estimate together with their action upon any objections which the mayor may have filed thereto with them, in accordance with the provisions of section 107, the common council shall, by resolution, authorize such board of education to borrow such sum or such part thereof as the common council may

determine. Such loan shall be evidenced by the bond or bonds of the city of Plattsburg of such denominations as the said common council shall determine, which bonds shall be conditioned that the city of Plattsburg will pay the principal named therein and interest and shall bear interest not exceeding the legal rate per annum, payable semiannually, and be payable in such sums in each year as the common council shall determine, and shall be signed by the mayor and city clerk of Plattsburg, and sealed with the corporate seal of said city, and a record thereof shall be kept in the city clerk's office. The bonds so issued, shall be delivered to said board of education and shall not be negotiable until signed by the president and clerk of said board and sealed with its corporate seal, and the amount realized from the sale thereof shall be paid to the city chamberlain, and the par value of said bonds shall be placed by the city chamberlain to the credit of the said board of education, and shall be drawn only on warrants of said board of education, and for the purposes for which such loan shall have been authorized, and for no other purpose. The common council of the city of Plattsburg shall annually raise by tax and as a part of the school moneys, the amount of money necessary to pay the interest annually accruing upon such bonds and the principal falling due and payable in each year. The said board of education shall certify annually, by and in the resolution heretofore referred to in section 107, the amount of money necessary to be raised by tax, to pay interest on such bonds and the principal of such bonds falling due in any ensuing year. (*As amended by L. 1904, ch. 319.*)

§ 110 If at any time after the passage of the resolution provided in section 107, the said board of education shall determine that more money is needed for any of the purposes mentioned in said section, the said board may, by resolution, determine the amount so needed, whereupon the same procedure shall be taken with reference to such additional sum as is provided by section 107 herein. And the provisions herein relating to the temporary loan of moneys in anticipation of taxes, shall apply to this section with reference to such additional amounts, and the same provisions shall apply to the common council of such city with reference to the raising by tax of the amounts thus temporarily borrowed, and the payment of the interest thereof as is contained in section 107.

§ 111 All public moneys or funds belonging or appropriated to the use of said school district shall be paid to the chamberlain of said city, who shall keep the same separate from the general funds of the city, and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the school moneys of said district by orders from the chamberlain, signed by the president; said orders shall be numbered consecutively, and shall specify the purpose for which they are drawn, and the persons to whom payable. Upon request from said board, the chamberlain shall certify from time to time the balance remaining, to be collected by or paid to the city chamberlain for school purposes; it shall not be lawful for such chamberlain to apply such moneys or any part thereof to any other purpose or object.

§ 112 The said board of education shall, from time to time, as it shall deem

expedient or necessary, make provisions in accordance with the provisions of this chapter for additions, alterations or improvements to or in the sites or structures belonging to said district, purchase other sites or structures, erect new buildings, purchase apparatus and fixtures, or other necessary property for the district, as it shall determine. But no resolution for the purchase of new sites or the erection of new buildings shall be effective, unless it shall receive the affirmative vote of two-thirds of the members of said board of education. Said board of education shall provide accommodations and facilities for the proper instruction of all the children of school age residing in such city, and shall provide suitable textbooks for indigent pupils, and in their discretion, may embrace in their estimate submitted to the mayor and common council, suitable provision for providing all pupils with textbooks to be used in said schools, under such rules and regulations as they shall prescribe, and they have entire and exclusive charge and control of the public schools of the city of Plattsburg, subject to the powers of supervision and direction vested in the State Superintendent of Public Instruction, and subject to the visitation of the Regents of the University and their regulations as to the course of education and matters pertaining therein in the academic department of the schools maintained by them. Said board may make all necessary by-laws for its own government, except as herein otherwise provided, and said board of education shall be subject to the laws relating to union free schools, and the general statutes of the State relating to schools, except as modified by this chapter. The board of education shall be entitled to its proportion of the State moneys for the public schools of said city of Plattsburg, which shall be apportioned by the State Superintendent in accordance with the general provisions of law. It shall have charge of the school libraries and make all necessary and proper regulations concerning the same, and may impose fine for abuse of books, and may adopt such ordinances and by-laws as they shall deem necessary for the protection, safekeeping, care and preservation of the school building and other school property of said district under their charge, and impose such penalties for the violation of the same as it shall deem proper. Any person incurring fines shall be liable to an action for the same by the board of education, and the amount received shall be deposited with the city chamberlain, and available for the general expenses of the board of education in connection with said schools. And it may appropriate for the benefit of said libraries out of moneys annually raised in the said city, by the school tax, an amount not exceeding two hundred dollars, in addition to the library money received from the State. It shall have the power to appoint librarians and provide truant officers for the enforcement of the compulsory education law.

§ 113 The said board of education shall have a corporate seal with such design as it may adopt. The services of the board of education designated by this act shall be gratuitous except of the clerk as herein provided. (*As amended by L. 1904, ch. 319.*)

Chapter 332, Laws of 1828**An act to incorporate the Plattsburg Academy**

Section 1 Benjamin Mooers, John Lynde, William Swetland, Jonathan Griffin, Frederick Halsey, Frederick L. C. Saily, Heman Cady, Ephraim Buck, William F. Haille, George Marsh, John Palmer, Henry K. Averill, are hereby constituted a body corporate and politic, by the name of the trustees of the Plattsburg Academy, for the purpose of promoting literary instruction at Plattsburg, in the county of Clinton, and by that name they and their successors shall have perpetual succession, may sue and be sued, make and use a common seal, and alter the same at pleasure, hold property, real and personal, to the amount of the annual income of three thousand dollars, and buy and sell, and otherwise dispose of such property, real and personal.

§ 2 Whenever any three of said trustees shall signify their request, the senior trustee actually exercising his office shall call a meeting of the said trustees, at such time and place as he shall appoint, of which previous notice shall be given by posting the same on the door of the academy, not less than eight, nor more than twelve days from the time of making such request.

§ 3 At every such meeting, the senior trustee present shall preside; such seniority to be determined by their nomination in this act, or by their priority of election, after all the trustees herein named shall have become extinct.

§ 4 A major part of the trustees of said academy shall form a quorum to do business, and adjourn from time to time as the duties of their trust may require; and it shall not be necessary to give notice of a meeting held in pursuance of such adjournment.

§ 5 The said trustees, or a major part of them, when assembled as aforesaid, may from time to time appoint a treasurer and clerk, principal, tutors and other necessary officers, and may ascertain their compensation, and may remove them at pleasure.

§ 6 It shall be lawful for the said trustees to make such by-laws for the government of the said corporation, for the admission, education and discipline of the students, and for the establishment of terms of tuition, the management and disposal of the property and affairs of the said corporation, and may alter, amend or repeal the same, as a major part of such quorum shall determine to be most beneficial.

§ 7 Whenever any vacancy shall happen in said corporation, by the death, resignation, refusal or neglect to act for one year, of any one trustee, it shall be lawful for the residue of the said trustees to elect, by ballot, at any legal meeting, a person to supply such vacancy.

§ 8 The said trustees, or a major part of them, when legally assembled, may elect, by a majority of votes, one of their number president for one year, and until another shall be elected; which president may perform the duties required by this act to be performed by the senior trustee.

Chapter 810, Laws of 1867

An act to consolidate school districts numbers 1, 2 and 5 of the town of Plattsburg, in a free union single district, and to vest the government thereof and of the academy therein in a board of education

(NOTE. *All of this act, except section 3, was expressly repealed by the charter of 1902.*)

Section 3 Whenever the existing trustees of the academy of Plattsburg shall signify their assent thereto, it shall be the duty of the said board of education forthwith to establish an academical department of the said union free school district in the said academy; but nothing in this act contained shall be deemed or held to affect or impair the separate corporate existence and continuance of the said academy, or any rights or privileges appertaining to it as such, except as herein expressly provided; and the said board of education shall succeed to, have, possess and execute all the duties and powers had, or possessed by, or incumbent upon the board of trustees of the said academy to do or perform, touching the said academy as a corporate body, the real and personal estate thereof, its fiscal concerns, and the duties required to be performed by the rules and regulations of the Regents of the University, and to which said academy shall remain subject in its course of education, and all matters pertaining thereto. And the said board of education shall become on the organization thereof, the acting trustees of the said academy, charged with all the duties and powers of the former trustees (except as herein provided), and all the powers and duties conferred by this act, and the said title 9 of the act of 1864, as modified by this act; and to enable said board fully to execute said trust, the legal title to the academy lot, the structures thereon, and to all the personal property belonging to the said academy as a corporation, and the care and custody of all the existing records and papers of the said board of trustees of the academy shall pass and vest in the said board of education on the organization thereof, in trust as aforesaid. The president, secretary, treasurer, collector, and other officers of the board of education, shall hold the same positions respectively in the board of acting trustees of the academy, and a separate record shall be kept of all matters relating to the separate existence of said academy.

PORT JERVIS¹

The city of Port Jervis is included in union free school district no. 1, town of Deepark, but the boundaries of the city and of such district are not coterminous.

Chapter 579 of the Laws of 1866 extends the boundaries of this district by including all that part of school district 9 which lies within the corporate limits of the village of Port Jervis, and also provides for taxes, bonds etc., to purchase sites and to build or purchase schoolhouses.

Chapter 573 of the Laws of 1867 amends the boundaries of this district and authorizes the district to raise money to purchase sites and to build or purchase schoolhouses.

Chapter 524 of the Laws of 1880 authorizes the board of education of this district to employ a superintendent of schools and the act further confers upon the district the powers and privileges conferred upon cities and incorporated villages under the general provisions of consolidated acts relating to public instruction.

Chapter 61 of the Laws of 1884 authorizes this district to take proceedings for the removal of St John's burying ground and to acquire the title to said burying ground for the enlargement of the schoolhouse site.

¹ The provisions of the Education Law apply to this city.

POUGHKEEPSIE

Chapter 425, Laws of 1896

An act to amend the charter of the city of Poughkeepsie

TITLE IX

OF SCHOOLS AND BOARD OF EDUCATION

Section 161 The board of education shall consist of seven members who shall be styled commissioners of schools. Upon the expiration of the terms of office of the commissioners now appointed, and annually thereafter, the mayor shall appoint one commissioner of schools for the term of seven years. (*As amended by L. 1900, ch. 659; L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 162 The commissioners of schools shall meet at the board rooms on each 1st day of January, unless it be Sunday, and then on the next day, and organize by electing one of their number president. If a president of the board shall not be elected on or before the 5th day of January thereafter, the mayor shall designate one of the commissioners as the president of the board until the next organization thereof. The president of said board shall receive an annual salary of one hundred dollars. (*As amended by L. 1900, ch. 659; L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 163 The board of education shall have charge and control of the public schools and public school property of the city, and shall have power:

1 To appoint a superintendent of public schools, a secretary of the board and such other officers and employees as it shall deem necessary, and shall prescribe their duties, except as hereinafter provided.

2 To fix the salary and compensation of each of said officers and employees, except as otherwise herein provided.

3 To acquire property for school purposes; to erect school buildings and keep the same in repair.

4 To furnish supplies for school purposes.

5 To employ teachers and to fix the amount of their compensation. No teacher shall be employed who does not hold the certificate of qualification required by the laws of the State.

6 To prescribe the studies in the schools and the textbooks to be used therein.

7 To dismiss any teacher whenever from any cause the interests of the schools require such dismissal.

8 To make rules and regulations for the public schools.

9 Except as otherwise provided in this act, to exercise all powers conferred by the laws of the State boards of education in union free school districts. (*As amended by L. 1898, ch. 232; L. 1900, ch. 659; L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 164 The president of such board shall, between the 1st and 15th days of

October, make to the Superintendent of Public Instruction a report of the preceding school year of all matters and things which trustees of school districts are by law required to report, and of all such other matters and things as the said Superintendent shall from time to time require.

§ 165 The board of education shall make a report to the common council on the 31st day of December of each year, setting forth the number and condition of each school under its charge, and containing an account of all warrants issued by it and of all debts unpaid, and the objects for which they were incurred. The report to specify the cost of maintaining each school, and such other matters as the board may wish to submit or the council require. (*As amended by L. 1910, ch. 632.*)

§ 166 (Repealed by L. 1910, ch. 632.)

§ 167 When the board of education has included in its annual estimate, and certified to the common council an amount of money which will be needed for the purchase or condemnation of a lot, or the purchase or erection of a building for school purposes, the common council may approve the same, and include it in the amount to be raised by general taxation, as provided in section 66 of this act, or it may submit the question of the purchase of a lot or the purchase or erection of a building, or both, to the electors, being taxpayers, entitled to vote special taxes under this act at an election to be held in the manner provided by this act in voting special taxes. The said electors shall vote by ballot on which shall be written or printed the object for which the ballot is cast whether for or against a building or lot, or both. If a majority of the votes cast shall be cast for a building or lot, or both, it shall be the duty of the common council to certify to the board the result of such election and the board shall purchase a lot, or purchase or erect a building, or both, in such location and in such manner as to the board shall seem best. Whenever a lot shall be acquired by purchase, condemnation or otherwise, or a building shall be purchased or erected the title to such lot shall be taken to, and shall vest in the city. The cost of building shall in no case exceed the amount estimated by the board. (*As amended by L. 1900, ch. 659; L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 168 and 169 (Repealed by L. 1910, ch. 632.)

TITLE V

OF ASSESSMENTS AND TAXES

Section 66 On or before the 1st day of October in each year, the board of public works, the board of education, the board of commissioners of charities, the police board, the board of health, and the board of trustees of the city library shall each estimate and certify to the common council the amount of money required for the expenses of its department for the next year, stating in detail as far as practicable, the purposes for which the money is required. The common council shall prepare a like estimate of all other moneys to be raised as herein specified, and of all the estimated income on account thereof, and shall cause such estimates to be published in one or more daily newspapers

published in said city, one week before action shall be taken thereon by the said council. The council shall revise such estimates and shall cause the amounts thereof, or so much thereof as it shall deem necessary, to be raised by general tax. (*As amended by L. 1900, ch. 659.*)

Section 14 provides that the mayor shall appoint a board of education of seven members and may remove such members. Under the terms of section 6 such members must take the oath of office prescribed by the constitution.

TITLE XI OF THE CITY LIBRARY

Section 184 The mayor shall annually appoint one trustee of the city library for the term of five years. (*As added by L. 1900, ch. 659, and amended by L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 185 The trustees shall meet at the Adriance Memorial Library on the 1st day of January, unless it be Sunday, and then on the next day, and organize by electing one of their number president.

The president of the board shall receive an annual salary of one hundred dollars. (*As added by L. 1900, ch. 659, and amended by L. 1901, ch. 204; L. 1910, ch. 632.*)

§ 186 The said board of trustees of the city library shall have the charge and control of the public library of the city, and shall have power:

1 To appoint a librarian who shall also act as secretary of the board, and such other officers and employees as it shall deem necessary, and shall prescribe their respective duties.

2 To fix the salary and compensation of said officers and employees and pay the same from the public funds under its charge.

3 To remove any officer or agent appointed or employed by it at pleasure.

4 To appropriate for the purchase of books and periodicals for the benefit of said library, out of the moneys annually raised, an amount which it shall deem proper.

5 To make all needful rules and regulations, and do all things, subject to the provisions of this act, requisite for the care, maintenance and protection of the public library of the city.

6 To make regulations, imposing fines and penalties for the abuse of books belonging to said library, and any person incurring any such fine or penalty shall be liable to an action for the same, and the amount received shall be applied to the use of the library.

7 In addition to the foregoing powers, the usual powers of a corporation for public purposes are hereby conferred upon the said board of trustees of the city library, to take, accept and execute any trust or power for the benefit of said city library that may be conferred upon, intrusted or committed to it by any person or persons by grant, transfer, bequest, gift or otherwise, and to receive, take and hold any property which may be the subject of any such trust. (*As added by L. 1900, ch. 659, and amended by L. 1902, ch. 228.*)

§ 187 and 188 (Repealed by L. 1910, ch. 632.)

Chapter 227, Laws of 1902**An act relative to a public school teachers retirement fund in the city of Poughkeepsie**

Section 1 The board of education of the city of Poughkeepsie is hereby given the general care and management of the public school teachers retirement fund created by this act. The city treasurer of the city of Poughkeepsie shall hold all moneys belonging to said fund, and by the direction of the board of education shall invest and pay out the same. The board of education shall have charge of and administer said public school teachers retirement fund as it shall deem most beneficial, and is empowered to make all necessary contracts and take all necessary and proper action and proceedings in the premises and to make payments from said fund of annuities granted in pursuance of this act; and shall from time to time establish such rules and regulations for the administration of such fund as it shall deem best. The city treasurer of the city of Poughkeepsie shall report in detail to the common council of the city of Poughkeepsie annually at its last meeting in each year, the condition of said fund, and the items of the receipts and disbursements on account of the same. The public school teachers retirement fund herein provided for shall consist of the following with the interest and income thereof:

1 All money, pay, compensation or salary, or any part thereof forfeited, deducted or withheld for or on account of absence from duty for any cause. The clerk of the board of education shall certify monthly to the said city treasurer the amounts so deducted from the salaries of teachers during the preceding month.

2 All moneys received from donations, legacies, gifts, bequests or otherwise for and on account of said fund.

3 The board of education shall on and after January 1, 1903, reserve monthly and turn over to said fund two per centum of the salaries paid each month to the teachers who shall, prior to that date elect in writing to come under the provisions of this act; and the board of education shall also reserve monthly and turn into said fund two per centum of the salaries paid each month to all teachers appointed after January 1, 1903.

4 The common council of the city of Poughkeepsie is hereby empowered and authorized to raise by general tax in the manner and at the time provided for in section 66 of chapter 659 of the Laws of 1900, an annual sum not exceeding twelve hundred dollars per annum, which shall be turned into said fund.

5 All such other methods of increasement as may be duly and legally devised for the increase of said fund.

6 The board of education may retire from active service, any teacher now in its employ, who has elected to come under the provisions of this act; or who shall be appointed on or after January 1, 1903, who has taught not less than

¹ The teachers of this city have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 1109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this city it has been superseded by the general law.

twenty-five years, of which twenty immediately preceding the proposed retirement shall have been in the public schools of the city of Poughkeepsie. Each and every teacher retired under the foregoing clause, shall receive during life, an annual allowance of three hundred dollars, to be paid in equal quarterly instalments; whenever the amount in the retirement fund herein provided for shall not be sufficient in any year to pay the allowances heretofore specified, payments shall be made in due proportion to the amount in the retirement fund applicable to that purpose. The board of education is hereby given the power to use both the principal and income on said fund and to manage, accumulate and control the same as said board shall provide by its by-laws.

§ 2 In case any teacher who is at the time of the passage of this act, or may hereafter be in the employ of the board of education shall be removed or discharged as such, all percentages from his or her salary paid into said public school teachers retirement fund, shall be reimbursed to him or her.

RENSSELAER

Chapter 69, Laws of 1915

TITLE XIII

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 279 Department of public instruction
280 Meetings of board and appointment of president and clerk of said board
281 Powers and duties of board of education
282 Purchases and repairs exceeding five hundred dollars
283 Superintendent of schools
284 Powers and duties of superintendent of schools
285 Appointment of teachers
286 New sites and new buildings
287 School budget
288 Preparation, revision and approval of budget
289 School funds
290 Members of board of education to constitute library commission
291 Powers and duties of the library commission

§ 279 Department of public instruction. 1 A department of public instruction in the city of Rensselaer is hereby established. The affairs of said department shall be under the general management and control of a board of education composed of five members, to be called "members of the board of education" and to be appointed as herein provided.

2 No person shall be eligible to the office of member of the board of education who has not been a resident of the city for which he is appointed, for a period of at least five years immediately preceding the date of his appointment.

3 Within ten days after the passage of this act, the mayor of the city shall appoint five members of the board of education, as follows: two to serve until February 1, 1916; two to serve until February 1, 1917, and one to serve until February 1, 1918. Upon the appointment of such members, the terms of office of the present commissioners of education of the city, having control and management of the schools of said city, shall cease and determine.

4 Thereafter and after the 1st day of January, and before the 1st day of February in each year preceding the expiration of a term of office by a member of the board of education, the mayor shall appoint a successor to hold office for a term of three years from and including the 1st day of February in the year in which he is appointed.

5 If a vacancy occurs in the office of a member of the board of education, the mayor shall fill such vacancy by the appointment of a member for the remainder of such term.

6 Such members of the board of education shall serve without pay.

§ 280 Meetings of board and appointment of president and clerk of said

board. 1 Upon the appointment of such members of the board of education, the superintendent of schools shall call a meeting of the board to be held at the rooms usually occupied by the commissioners of education, by giving at least three days written notice to each member thereof and stating the hour at which the meeting will be held. At such meeting of the board it shall elect one of its members president who shall exercise all the powers usually incident to such office. The superintendent of schools shall be secretary of such board and the board shall determine his duties, but he shall receive no additional compensation for his services in acting as clerk of said board.

2 Such board shall also fix a time for holding regular board meetings and shall prescribe a method for calling special meetings of such board.

§ 281 **Powers and duties of board of education.** The board of education shall possess the following powers and be charged with the following duties.

1 To perform any duty imposed upon boards of education or trustees of common schools under the Education Law or other general statutes or the regulations of The University of the State of New York or the Commissioner of Education, relating to public education, so far as they may be applicable to the schools of the city of such classes and not inconsistent with the provisions of this act.

2 To appoint a qualified person other than a member thereof, superintendent of schools, and determine the salary of such superintendent.

3 To appoint from time to time as required by law, such teachers, nurses, attendants, officers, janitors and such other experts in educational work and such other employees as such board shall determine necessary for the efficient management of the schools, and to fix their compensation.

4 To have the care, custody and safe-keeping of all school property, real and personal, except as herein provided and to prescribe rules and regulations for the preservation and protection of such property.

5 To provide such school apparatus, maps, globes, furniture and other equipment as may be necessary for the proper and efficient management of such schools and also to provide free textbooks and other supplies to all children attending the schools of said city.

6 To provide such free elementary schools, high schools, night schools, open air schools, vocational and industrial schools, part-time and continuation schools, vacation schools, schools for mentally and physically defective children and schools for adults, as such board shall determine necessary.

7 To provide school libraries which shall be open to the public and to establish and equip playgrounds, athletic centers, social centers, lecture courses, and reading and recreation rooms, whenever financial provision shall be provided therefor by the common council.

8 To determine the general course of study which shall be given to the schools and to approve the context of such courses before they become operative.

9 To determine the textbooks to be used in the schools upon the recommendation of the superintendent of schools.

10 To prescribe such regulations as may be necessary for the conducting of the proceedings of such board, and for the general management, control and discipline of the schools.

11 To make ordinary repairs and to purchase supplies or materials for the school system, where no single item exceeds five hundred dollars, and the provisions of section 75 of this act shall not apply to the making of such repairs or the purchase of such supplies or materials, and the same may be purchased without public advertising therefor.

§ 282 **Purchases and repairs exceeding five hundred dollars.** All repairs to buildings and grounds and supplies or materials purchased for the school system, the purchase price or cost thereof which exceeds five hundred dollars, shall be made by the common council on the recommendation and approval of the board of education.

§ 283 **Superintendent of schools.** 1 No person shall be eligible to the position of superintendent of schools who has not had at least five years' successful experience in teaching or in the supervision of schools.

2 The superintendent of schools shall hold office for a period commencing from the date of his appointment and continuing until the expiration of three years following the 1st day of July following his appointment. Charges of incompetency, maladministration or misconduct in office may be preferred in writing against the superintendent, whereupon the board shall proceed to hear such charges and if such charges are sustained by an affirmative vote of a majority of the board, the superintendent may be dismissed from office.

§ 284 **Powers and duties of superintendent of schools.** The superintendent of schools shall possess the following powers and be charged with the following duties:

1 To enforce all provisions of law and rules and regulations affecting the management of the schools and to be the chief executive officer of the school system.

2 To prepare an outline and the scope of the work to be included therein, for each of the courses of study authorized by the board of education, and to submit the same to such board for its approval, and when thus approved to see that such courses of study are used in the grades and schools for which they are authorized.

3 To recommend to the board of education suitable textbooks to be used in the various grades and subjects taught in the curriculums of the schools.

4 To transfer teachers from one school to another or from one grade to another.

5 To have general supervision over all the teachers employed in the schools, and over all employees of the board of education, and to report to said board violations of regulations and all cases of insubordination and to suspend a teacher or other employee until the next regular meeting of the board when all facts relating to the case shall be submitted to the board for determination, and in such cases the accused party shall have the right to appear before the board.

6 To have general supervision and direction over the enforcement and observation of the courses of study and the examination and promotion of pupils.

7 To have general supervision and direction over the work of special experts employed in the school system, and over matters pertaining to playgrounds, medical inspection, athletic and social center work, libraries and all the educational activities under the management of the board of education.

§ 285 **Appointment of teachers.** 1 The principal of each school, directors, supervisors, and other educational experts, shall be appointed by the board of education upon the recommendation of the superintendent of schools and shall hold their position during good behavior, and shall be removed for cause only after a hearing by the affirmative vote of at least a majority of the board.

2 All other teachers shall be appointed on the recommendation of the superintendent of schools for the probationary period of not to exceed two years; at the expiration of such term the superintendent of schools shall make a written report to the board of education recommending for regular appointment those teachers whom he has found competent and efficient. The board of education may thereupon appoint to the teaching force of the city, those teachers for whom satisfactory reports are submitted by the superintendent of schools. Thereafter such teachers shall hold their position during good behavior, and shall be removed for cause only after a hearing by affirmative vote by a majority of the board.

3 No teacher shall be appointed to the teaching force of the city, who does not possess the qualifications prescribed under the educational law and under the regulations prescribed by the commissioners of education for the certification of teachers employed in the schools of the cities of the State.

4 A teacher whose name is not included in the report of the superintendent of schools as doing efficient work for two successive years shall be discontinued as a member of the teaching force of the city, unless a majority of the members of the board of education shall vote to retain such teacher.

§ 286 **New sites and new buildings.** 1 Whenever in the judgment of the board of education the needs of the city require a new school building or whenever one of the present buildings should be repaired, remodeled or enlarged, such board shall pass a resolution specifying in detail the necessities therefor, and shall estimate an amount of money necessary for such purpose and shall forward a certified copy of said resolution and estimate to the mayor and the common council.

2 Whenever in the judgment of the board of education it is necessary to select a new site or to enlarge the present site or to designate a playground or athletic center, such board shall pass a formal resolution stating the necessity therefor and describing by metes and bounds the grounds or territory desired for each of these purposes. Such resolution when adopted, a certified copy thereof shall be forwarded to the mayor and the common council.

3 The common council shall thereupon consider such resolution and may call for such additional information from the board of education as appears necessary. The common council may authorize the issuance of bonds or certificates of in-

debtedness to meet the expenses incurred or to be incurred for such purposes as provided in this act, and which bonds and certificates of indebtedness shall be issued pursuant to provisions of this act and in the form for which bonds and certificates of indebtedness are issued for all city purposes.

4 The plans and specifications for repairing, remodeling or enlarging a school building and for the construction of new school buildings shall be prepared by and under the direction of the common council of the city, and the common council is hereby authorized to obtain such plans and specifications through competition or may authorize the employment of an architect to prepare such plans and specifications.

5 No school building shall be constructed, no grounds improved, or otherwise changed and no school buildings shall be remodeled, repaired or enlarged until the plans and specifications therefor are submitted to the board of education and approved by a majority vote of that body.

6 The construction, repairing and remodeling of school buildings and the construction, repairs or improvements of buildings, sites and other property authorized under provisions of this act and the award of contracts therefor shall be by, under and through the common council of the city.

§ 287 **School budget.** On or before the 15th day of May in each year the board of education shall prepare a budget for the ensuing fiscal year of such sums of money as may be deemed necessary for the following purposes after deducting therefrom the amount anticipated in the next apportionment of school funds from the State.

1 Salary of superintendent of schools, of all teachers, of all professional experts, of all nurses, of truant officers or janitors and of all other employees of the school system appointed or employed by the board of education.

2 All other necessary, incidental, contingent expenses including the ordinary repairs of buildings, the purchase of fuel and light, supplies, textbooks, repairs and purchases of school apparatus, books, furniture and fixtures and other articles and service necessary for the maintenance, operation and support of the school system.

§ 288 **Preparation, revision and approval of budget.** 1 The board of education shall give the mayor official notice of its meeting at which the aforesaid budget is to be prepared and the mayor may attend such meeting and shall be accorded the right of inquiry into any item of such budget and of the privileges of said meeting of the board by said board, except the privilege of voting. When the board of education shall finally have determined on the statement of expenses for the items indicated in the preceding section, it shall present the same to the mayor or the acting mayor of the city. After the mayor or acting mayor approves such statement, he shall sign it and immediately file it with the city clerk.

2 If the mayor disapproves of the same or any item therein, he shall within five days return such budget to the president of the board of education with his objection thereto indorsed thereon. The board shall then proceed to reconsider said budget and if three of the members of said board vote in favor of said

budget, it shall stand as if it had been approved by the mayor, and shall immediately be filed with the city clerk. If three of the members of the board do not vote for the adoption of said budget, it shall be modified so as to conform to the views indorsed by the mayor in his objections, or the board shall present to the mayor as in the first instance, a new budget.

3 If the mayor approves of such new budget, he shall sign it and file it with the city clerk, and the mayor if he does not approve of any item therein, shall within three days return the same with his objections as before. The board of education shall continue to present budgets as aforesaid until the mayor's approval is obtained or until three of the members of such board vote in favor of such budget over the mayor's objection. Such budget when thus approved or passed shall be filed with the city clerk. If the mayor fails to sign the statement of the budget required as herein provided or fails to return the same with his objections thereto, to the board of education within five days after its submission to him, such statement shall be filed with the city clerk in the same manner as if it had been approved.

4 When such statement is finally filed with the city clerk, the common council in determining the amount of the annual city tax levy shall include the amount specified in such final statement without change and shall cause the said amount to be levied in the annual city tax levy and extended upon the tax rolls in a separate column to be headed "School Taxes." Such school taxes shall be received and the collection thereof enforced in the same manner provided for the receiving and collection of other city taxes, and when the same shall be collected by the city treasurer he shall credit it to the school fund of the department of public instruction.

5 Such budget and statement shall be completed and filed with the city clerk on or before the 15th day of June in each year.

§ 289 **School funds.** 1 Public moneys appropriated to the city or belonging to the city, when received from any source whatsoever, and all funds raised or collected by the city for school purposes or to be used by the board of education for any purpose authorized by this act, shall be paid to the treasurer of the city who shall keep the same separate from the general funds of the city and shall credit all such funds to the department of public instruction.

2 Such funds shall be disbursed by a vote of the board of education upon warrants drawn on the city treasurer, signed by the president of the board of education and superintendent of schools. Such orders shall be numbered consecutively and shall specify the purpose for which drawn and the person or corporation to whom they are payable. All expenditures and purchases made under the provisions of section 282 of this act shall be paid by the board of education after such expenditures and purchases have been made and delivered to and accepted by such board and when the bills therefor are submitted in itemized form and approved by the common council.

3 The salary of the superintendent of schools, of all teachers, professional experts, nurses, truant officers, janitors and all other employees of the school

system appointed or employed by the board of education, shall be paid in such manner and at such times, and the moneys disbursed therefor, as the board of education shall fix and determine.

4 It shall be unlawful for the city treasurer to permit the use of such funds for any purpose other than that for which they are authorized, nor shall such funds be paid out except on the countersignature of the mayor. The city treasurer shall render to the board of education a monthly statement showing the amount of funds available and the specific purposes for which they may be expended.

§ 290 **Members of board of education to constitute library commission.** The members of the board of education shall by virtue of their office, be public library commissioners, and shall constitute and be the public library commission. The president of the board of education shall be president of the library commission, and the superintendent of schools shall be the clerk thereof. The library commission shall take over all property, books and equipment now under control and used by the existing library commission and devote the same to the objects of the commission.

§ 291 **Powers and duties of the library commission.** The public library commission may appoint a librarian or librarians, and such other subordinates as the common council may prescribe. The public library commission shall have power to make and enforce rules covering the use of the libraries and books, and such other powers and duties as are prescribed by the provisions of section ¹ 1027 to 1044, both inclusive, of the general educational law applicable thereto and by this act. The common council is authorized to make suitable appropriations for library purposes in accordance with the provisions of this act, and the provisions of section 75 of this act, relative to the purchase of supplies and incurring indebtedness in excess of two hundred dollars shall not apply to purchases made by the library commission and they may make such purchases from moneys appropriated for library purposes without public advertisement.

§ 16 **Appointive officers enumerated.** There shall be appointed by the mayor . . . five members of the board of education; . . . All appointments to any city office shall be evidenced by a certificate in writing, signed by the appointing officer and filed forthwith in the office of the city clerk. If any appointment be made by the common council, board or commission, such certificate shall be signed by the officer presiding at the time of appointment so made, attested by the clerk and filed forthwith in the office of the city clerk.

§ 17 **Notice of appointment.** Immediately after the filing of such certificate the city clerk shall give notice in writing to each person of his appointment to office.

§ 19 **Suspension and removal of appointive city officers.** The mayor may, in writing, suspend for ten days or less at any one time, any officer of the city appointed by him or by the common council, but he shall not suspend the same person more than twice in one year. In case of the suspension of any officer,

¹ So in original.

the mayor shall forthwith report to the common council the reason of such suspension.

Except as otherwise provided any appointive officer appointed by the mayor or common council may be removed by a two-thirds vote of the common council on any of the grounds for which a mayor may be removed, upon written charges being preferred to or by the mayor after reasonable notice thereof, and after a reasonable opportunity to be heard thereon has been given by the common council. Upon such investigation the common council may suspend such officer.

§ 22 **Holding over.** Every city officer shall continue to hold office until his successor shall be chosen and shall qualify, and no longer.

§ 23 **Vacancies.** Except as otherwise provided in this act, if a vacancy shall occur otherwise than by expiration of term, in any elective office of the city, the common council shall appoint a person to fill such vacancy until the end of the official year in which said vacancy occurs. If the term of officer vacating his office continues beyond the official year in which said vacancy occurs, a person shall be elected at the next annual city election after the occurring of such vacancy, to fill such vacancy for the remainder of the unexpired term. A vacancy occurring in any appointive office of the city, otherwise than by expiration of term, shall be filled for the balance of the unexpired term in the same manner as an appointment for a full term.

§ 24 **Resignations.** Resignation of elective officers shall be made in writing and presented to the mayor, and of all other officers to the appointing board or officer, and the board or officer to whom such resignation is presented shall thereupon file the same in the office of the city clerk. The resignation of the mayor must be made and presented to and filed with the city clerk.

§ 26 **Removal of employees.** Except as otherwise provided in this act, any board, commission or officer may remove or suspend without notice any employee of their or his board, commission or office. Laborers may be removed without any notice or hearing. Nothing herein contained shall be construed to limit or amend the civil service laws of the State.

§ 27 **Removed officer not eligible for reelection or appointment.** No elective officer who has been removed from office under any provision of this act shall be eligible for election or appointment to fill the vacancy caused by his removal.

§ 28 **Appointee to be a member of the same political party as predecessor.** In case of a vacancy from any cause in any elective office, the person appointed to fill such vacancy shall be a member of the same political party as the last incumbent of the office.

§ 29 **General powers and duties of officers and commissions.** The officers, boards and commissions elected or appointed pursuant to this act shall, in addition to the powers and duties specified herein, possess and exercise such powers and perform such duties as may from time to time be prescribed by law, ordinance or resolution of the common council, not inconsistent with the provisions of this act, and so far as applicable shall have all the powers and perform all the duties

conferred by general law upon corresponding officers, commissions, boards or departments of the cities and towns of this state.

§ 30 **Oath of city officers.** Any person elected or appointed to any office under this act shall, before assuming the same, take the oath of office prescribed by the constitution of this State and shall file the same in the office of the city clerk, and every person who shall omit to take and file his oath within the time prescribed by law shall be deemed to decline the office, and such office shall thereupon become vacant. Each commissioner of deeds and each city officer, who by the provisions of this act is given the same powers as commissioners of deeds, shall forthwith, upon his election or appointment, file a certificate of his election or appointment, to be issued by the city clerk, in the Rensselaer county clerk's office, and also take the prescribed constitutional oath of office before the said county clerk.

§ 32 **Officers not to be interested in contracts.** No member of the common council or officer or employee of the city or person receiving a salary or compensation from funds appropriated by the city shall be interested directly or indirectly in any contract to which the city is a party either as principal, surety or otherwise, nor shall any such member of the common council, city officers or employee, or person or his partner or agent, servant or employee for such officer, employee or person of the firm of which he is a partner, purchase from or sell to the city or any officer thereof, any real or personal property for the use of the city or any commission or officer thereof, nor shall he be interested directly or indirectly in any work to be performed for or service rendered to or for it or anything sold to or from said city or to any officer, board, commission or person in its behalf. Any contract made in violation of any of these provisions shall be void. A person shall not be deemed interested in a contract, purchase or sale made by a corporation, with, from, or to the city solely by reason of the fact that he is a stockholder or trustee of such corporation. The term "city officer" as used here however shall not be deemed to include commissioner of deeds.

§ 33 **Officers trustees of public property.** The common council and several members thereof and all officers and employees of the city are hereby declared trustees of the property, funds and effects of said city respectively, so far as such property, funds and effects are to be committed to their management or control, and every taxpayer residing in said city is hereby declared to be a cestui que trust in respect to said property, funds and effects respectively, and any cotrustee and any cestui que trust shall be entitled as against said trustee in regard to said property, funds and effects, to the benefit of all the rules, remedies and privileges provided by law for any cotrustee or cestui que trust, and to prosecute and maintain an action to prevent waste and injury to any property, funds and effects held in trust, and such trustees are hereby held subject to all the duties and responsibilities imposed by law upon trustees, and such duties and responsibilities may be enforced by the city or by any cotrustee or cestui que trust aforesaid. The remedies herein provided shall be in addition to those now provided by law.

§ 37 **Annual reports of departments.** The several heads of departments shall present to the mayor annually, on or before the 10th day of January, a report of their proceedings during the preceding year. The mayor shall transmit the same to the common council with any recommendation he may deem proper to make, but nothing in this act contained shall be construed to relieve such heads of departments from furnishing each other information as may be required by the mayor at any time.

§ 39 **Official misconduct; acts prohibited.** If any officer of the city shall vote for any appropriation or for the payment or expenditure of any moneys not authorized by or in pursuance to law, such officer shall be guilty of a misdemeanor. If the common council or any board or commission shall pass any resolution authorizing or purporting to authorize, or any head of any department or any officer authorizing any expenditure of money by the city, for any purpose exceeding the amount authorized by or in pursuance to law, to be expended for such purpose, each officer voting for such resolution in making such authorization shall be personally liable for the amount thereof. Each city officer shall upon the expiration of his term deliver to his successor all papers and effects of every description in his possession or under his control, belonging to the city or pertaining to such office, and if he shall fail to do so within five days after notification and request by his successor, he shall be liable to a penalty of one hundred dollars to be recovered by the city in a civil action together with all damages caused by his neglect or refusal so to do, and he may also be proceeded against as otherwise provided for by law.

§ 164 **Levying of city taxes and warrant for the collection thereof.** Immediately after the filing of said duplicate assessment rolls with the city clerk as in this act provided, the common council shall cause the amount authorized to be raised for city purposes, except school taxes, as finally determined to be rated and assessed upon the property of each person, company, corporation or association appearing on such assessment rolls, to be set opposite the name of each person, company, corporation or association respectively in a column headed "City Taxes" in proportion to the valuation therein stated. It shall also cause the amount authorized to be raised for school taxes in said city as finally determined as shown by the final statement prepared by the board of education filed with the city clerk and as in this act provided, to be rated and assessed upon the property of each person, company, corporation or association appearing on the said rolls and the same to be set down under a separate column headed "School Taxes" opposite the name of each person, company, corporation or association respectively. After said assessment rolls have been so completed and the taxes thereon extended, the same shall be adopted by a resolution of the common council and filed with the city clerk. The city clerk shall on or before the 1st day of August deliver one of the duplicate rolls for each ward to the treasurer with a warrant thereto annexed under the corporate seal of the city, signed by

the mayor and clerk thereof, commanding him to receive, levy and collect the several sums in the rolls specified as against the person or property therein mentioned or described and the several sums mentioned under the head of "City Taxes" and "School Taxes" opposite their respective names in the manner and with the same fees and interest as in this act provided. The local assessments and instalments thereof, the expense of cleaning and repairing sidewalks and curbs and all other items required by the provisions of this act to be inserted in the annual tax rolls against the real property shall become a part of the city and school taxes upon the respective lots or parcels of land against which such items are charged and the whole amount thereof becomes one tax and must be collected as such.

ROCHESTER

Chapter 755, Laws of 1907

An act constituting the charter of the city of Rochester

ARTICLE XIV

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 381 Board of education
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383 Specific duties
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387 Annual report to common council
388 Board to estimate the number of pupils enrolled
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392 Custody of libraries
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400 Qualifications of principals and teachers
401 Permanent appointment of principals and teachers
402 Suspension and removal of officers and employees
403 Common council may direct sale of school property
404 Public schools free
405 Teachers retirement fund

Section 381 **Board of education.** The head of the department of public instruction is the board of education, composed of the commissioners of schools. The board must meet on the first Monday of each and every month and at such other times as it may appoint, and must at its first regular meeting in January of each year elect one of its members president. Special meetings may be called by the secretary upon order of the president or on request of a majority of the board.

§ 382 **General duties.** The board establishes, controls, maintains and provides for the public schools, the public school system, and the general educational interests of the city, and manages and controls the property, real and personal, which belongs to the city and is used for the purposes of education, subject only to the general statutes of the State relating to public schools and public school instruction and to the provision of this act.

§ 383 **Specific duties.** The board has power:

1 *Establishment of schools.* To establish, control and maintain kindergartens, common schools, high schools, manual training and industrial schools, evening schools, including provision for special studies and social improvement, vacation schools, training schools for teachers, and truant schools; to discontinue or consolidate schools; and to establish on lands under its control, with the consent of the commissioner of parks, playgrounds, recreational, pleasure and athletic grounds, and recreational, pleasure and athletic activities and facilities, which when established are under the control, care, management and maintenance of said commissioner, and to discontinue the same. (*As amended by L. 1915, ch. 13.*)

2 *Changing grades and courses of study.* To change the grades of any or all schools, and to adopt and modify courses of study therefor.

3 *Fixing qualifications of teachers.* To license teachers for the schools of the city, and to fix a standard qualification as a necessary requirement for the service of all principals and teachers in the schools of the city, which requirement may be higher but not lower than the minimum qualifications required by the laws of the State and the provisions of this act.

4 *Purchase of school property and supplies.* As herein provided, to purchase, lease or improve sites for schoolhouses; to build,*purchase, lease, enlarge, improve, alter and repair schoolhouses and appurtenances; to purchase, improve, exchange and repair schools, apparatus, books, furniture and appendages; and in general to provide for all the requirements of the schools under its control.

5 *Appointment of officers and employees.* To appoint as herein provided:

a A secretary of the board to serve during its pleasure.

b A superintendent of public schools, whose term of office is four years.

c Two examiners to serve during the pleasure of the board.

d A supervising architect of experience and good standing in his profession, to serve during the pleasure of the board.

e All school principals and teachers.

f All janitors and truant officers, subject, however, to the restrictions imposed by the general laws of the State.

g Such other officers and employees as it may deem necessary for the proper discharge of its administrative duties.

6 *Vacancies.* To fill for the unexpired term any vacancies which may occur in the offices or positions in this section provided for.

7 *Nonresident pupils.* To allow the children of persons not residents of the city to attend the schools under the care and control of the board, upon the payment of such tuition and upon such terms as the board may by resolution prescribe. Permission must be granted to children residing in those portions not annexed of school districts numbers 2 and 10 of the town of Brighton, as such districts existed on the 1st day of March, 1913, and of school district number 4 of the town of Greece, as the same existed on the 1st day of March, 1915, to attend without payment of tuition schools under the care and control of the

board. The board must cause to be made and filed in its office maps showing the boundaries of the aforesaid districts as existing on said respective dates. (*As amended by L. 1913, ch. 659; L. 1915, ch. 359.*)

8 *Adoption of rules.* To adopt rules and regulations for the proper transaction of its business; for defining the duties of its officers and employees, and for the proper execution of all powers vested in and duties imposed upon it by law.

9 *Use of schools for libraries.* Permit the board of trustees of public libraries to use school buildings or parts thereof for the establishment and maintenance of libraries. (*As added by L. 1911, ch. 340.*)

§ 384 **Power to fix salaries.** The board of education may fix within the proper appropriation of money therefor, the salaries and compensation of all officers and employees appointed by it.

§ 385 **Annual report to State Superintendent.** The board must between the 1st day of August and the 30th day of September of each year, transmit to the State Superintendent of Public Instruction, a report in writing for the State school year ending on the next preceding 31st day of July, in such form and stating such facts as the State Superintendent and school laws of the State may require.

§ 386 **Publication of proceedings.** It is the duty of the board to cause to be published in one of the official papers a report of the final proceedings of each meeting of the board.

§ 387 **Annual report to the common council.** It is the duty of the board to prepare and transmit to the common council within ten days preceding the close of the fiscal year, correct statements of the receipts and disbursements of money during such fiscal year, in which accounts must be stated under appropriate heads:

1 The moneys raised by the common council under the provisions of this act.

2 The school moneys received by the city treasurer from the county treasurer of the State.

3 All other moneys received by the city treasurer, subject to the order of the board, specifying the same and the sources thereof.

4 The manner in which such sums of money have been expended, specifying the amount paid under each head of expenditure, and whether any part of any such fund remains unexpended.

5 Whether any and what claims or bills against the department, or obligations incurred by said department, remain unpaid.

6 A full account of the condition of the teachers retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year.

§ 388 **Board to estimate the number of pupils enrolled.** The board must, on or before the 15th day of January in each year, report to the board of estimate and apportionment the total number of persons registered as pupils in the public schools of the city during the preceding year.

§ 389 **Contracts for work and supplies.** Whenever the board intends to cause any work to be performed or to purchase any supplies at an estimated ex-

pense of not less than fifty or more than two hundred and fifty dollars, it is the duty of the officials having jurisdiction thereof to procure estimates of such work or supplies from two or more competitors, whenever practicable, and report such estimate to the board for its consideration and action. Whenever the estimated expense of such work or supplies exceeds two hundred and fifty dollars, the board must proceed as follows:

a A resolution providing for the doing of the work, or the purchasing of supplies, must be entered by the clerk in full in the minutes of the board. Bids must be called for by publication in the official papers at least twice in each week for two weeks.

b Bids duly sealed must be filed with the clerk by twelve o'clock noon of the last day, as stated in the advertisement.

c Bids must be opened at the next meeting of the board and publicly read by the clerk.

d Each bid, if it relates to both labor and materials, must state each separately, with the price thereof, and must contain the name of every person, firm or corporation interested in the same; and must be accompanied by a sufficient guarantee of some disinterested person that if the bid is accepted a contract will be entered into and the performance of it properly secured by bonds duly approved.

e The board may, in its discretion, accept any bid which is most advantageous to the city and thereupon cause a contract therefor to be executed in the name of the city by the president of the board; or it may reject any or all bids, as the interests of the city require.

§ 390 **Emergency repairs.** In case of emergency requiring the closing of a school building unless immediate repairs thereto are made, the board may cause repairs thereto to be made without a contract therefor, or may let a contract therefor without advertising and receiving bids, upon filing with the comptroller a certificate approved by the mayor showing such emergency and the necessity of repairs.

§ 391 **Contracts for construction of school buildings exceeding one year.** The board may let contracts for the construction of school buildings in which it is agreed that the contract price is payable from the moneys appropriated for the department of public instruction or otherwise lawfully added thereto for the fiscal year in which the contracts are let and for the fiscal year following, provided that the total amount contracted to be paid from the moneys for the fiscal year following the letter of contracts must not exceed one hundred thousand dollars.

§ 392 **Custody of libraries.** The board is the trustee of the school library or libraries in the city, and all the provisions of the law now or hereafter passed relative to public school libraries apply to the board. It is vested with the same discretion as to the disposition of all moneys appropriated by any law of the State for the purchase of libraries which is therein conferred upon the inhabitants of the school districts. It is the duty of the board to provide for the safekeeping of the library or libraries.

§ 393 **Duties of secretary.** The secretary has charge of the rooms, books, papers and documents of the board, except such as pertain to the office and duties of the superintendent. He must perform such duties as may be required of him by the board, its committees or members. He has the right to administer oaths and take acknowledgments, but without fee. He is the clerk of the board, and must keep or cause to be kept a record of the proceedings thereof. He must also keep, or cause to be kept, a set of records, showing the receipts and expenditures of the board. Said expenditures must be subdivided so as to show the cost of maintaining each school separately and the supplies used therein. He must also keep or cause to be kept a series of receipts, to be signed by either the principals or janitors, certifying to all repairs and improvements made and all supplies received for the respective school buildings and premises. The printed record of the board, or a transcript thereof, certified by the president, or secretary, is presumptive evidence of all the facts therein set forth, and such records, and all the books, accounts, vouchers and papers of the board must at all times be subject to the inspection of the common council and of any committee thereof.

§ 394 **Qualifications of superintendent.** No person is eligible to be appointed as superintendent, unless he is a graduate of a college or university recognized by the Regents of the State of New York, and has had at least ten years' successful experience as a practical educator.

§ 395 **Powers and duties of superintendent.** The superintendent has power, and it is his duty to enforce the laws of the State applicable to the public schools of the city and all the rules and regulations of the board, except as herein provided. He must visit the schools of the city as often as he can consistently with his other duties, and inquire into the character of the instruction, management and discipline, and advise and encourage the officers, teachers and pupils thereof. He must prescribe, subject to the rules of the board and the provisions herein, suitable registers, blanks, forms and regulations for making all reports and for conducting all necessary business connected with the school system, and he must cause the same, with such information and instruction as he deems conducive to the proper organization and government of the schools to be transmitted to the persons entrusted with the execution of the same. He must report to the board from time to time as he may be required or deem necessary, a statement of the condition of the schools and all such matters relating to his office, and such plans and suggestions for the improvement of the schools and for the advancement of public instruction in the city, as he may deem expedient. He must recommend the number of teachers necessary for each of the several schools. He may, whenever occasion requires, and unless otherwise directed by the board, appoint supply teachers and assign them to duty, and he may temporarily transfer principals, teachers and pupils from one school to another. It is his duty to maintain proper discipline in the management and conduct of the schools, and he may in his discretion suspend or expel any pupil guilty of misconduct or insubordination, and may suspend for cause any teacher, principal or employee. He must immediately report such suspension to the board. It is his duty to report to the board in-

efficiency on the part of principals, teachers and employees. He must nominate an assistant superintendent, special teachers and supervisors. He must enforce the compulsory education law and direct truant officers in the discharge of their duties.

§ 396 **Powers of principals.** A principal under the general supervision of the superintendent, has the direction of the school over which he is placed, and the assignment of teachers to their respective grades in the school, and he must direct them as to methods of instruction and discipline. He may suspend any teacher for a definite time for inefficiency or insubordination, and he must immediately report such suspension and the reasons therefor to the superintendent.

§ 397 **Duties of supervising architect.** It is the duty of the supervising architect, subject to the rules and regulations of the board, to inspect school buildings, prepare plan and specifications for new buildings, annexes and repairs, and to supervise the construction and making thereof.

§ 398 **Qualifications of examiner.** No person is eligible to be appointed as examiner, unless he is a graduate of a college or university recognized by the Regents of the State of New York, and has had at least five years' successful experience in teaching since graduation, or unless he has a state certificate and has had at least ten years' successful experience in teaching since obtaining such certificate. No principal or teacher in the public schools in the city is eligible to appointment as examiner.

§ 399 **Board of examiners.** The board of examiners consists of the superintendent and two examiners, and it is its duty to examine all applicants for positions as principals or teachers in the public schools of the city, and to prepare an eligible list of such applicants as they may deem qualified, classified as to position and graded according to scholarship, character and general fitness. The board of examiners must hold such examinations as the superintendent may prescribe, and must prepare the eligible list. The superintendent must report the eligible list to the board of education, and must also subscribe the same into a book, which is open to public inspection. Any name placed upon the eligible list is entitled to remain thereon without further examination for the period of two years, after which the name is dropped from the list unless otherwise determined by the board of examiners.

§ 400 **Qualification of principals and teachers.** The superintendent must nominate principals for each school from the first ten names certified by the board of examiners as qualified for principalship. No person must be appointed to the position of principal of high school or grammar school, or to the position of teacher of a high school, who has not had two years' successful experience as teacher, and who does not possess one of the following qualifications: (a) Completion of a four years' course in a college or high school recognized by the Regents of the State of New York. (b) Completion of a four years' course in a normal school recognized by the State Department of Public Instruction. (c) Holder of a life certificate of the State of New York granted upon examination. The superintendent and principal of a school constitute a board for

the nomination of teachers for such school from the first twenty-five names on the eligible list for teachers, but no person may be appointed as teacher in a grammar school or kindergarten who is not a graduate of a normal school after a course of study therein of at least two years, or has not pursued a course in pedagogy in a State training school or city training school for one year; except that any graduate of the normal course of the Rochester Athenaeum and Mechanics Institute after a course of study therein of at least two years, may be appointed as teacher of manual training, domestic science, domestic art, or any of the special subjects comprised in the normal course of said institute. The board of education must consider such nomination, and upon approval appoint the person so nominated. But any principal or teacher in the employ of the board of education at the time of the passage of this act is exempt from the conditions as to qualifications of eligibility imposed by this act. Any principal or teacher who has been appointed is eligible to reappointment without examination or certification by the board of examiners.

§ 401 **Permanent appointment of principals and teachers.** Any principal or teacher who has been appointed to the same school for three successive years may, upon the recommendation of the superintendent, be promoted by the board to permanent service in such school during good behavior, and thereafter they may be suspended or removed as herein provided only for cause and after a hearing.

§ 402 **Suspension and removal of officers and employees.** The board may suspend any principal or teacher for a definite time, and may for cause remove any officer, principal, teacher or employee; provided, however, that no officer, principal or teacher may be removed until opportunity for a hearing at a meeting of the board has been given. All suspensions by principals are subject to review by the superintendent, and suspensions by the superintendent are subject to review by the board. Any person suspended is not entitled to salary for time of suspension, unless such suspension is revoked by superior authority. This section does not limit the power of removal of any person holding during the pleasure of the board, and does not require any hearing to be had upon a failure to reappoint after the expiration of a term.

§ 403 **Common council may direct sale of school property.** Upon recommendation of the board of education, the sale of schoolhouses, lots or sites, or any other school property, may be authorized by ordinance of the common council as herein provided in relation to other sales of real property. The proceeds of such sale must be paid to the treasurer to the credit of the funds of the department of public instruction.

§ 404 **Public schools free.** The public schools are free to all children between the ages of 5 and 21 years residing in the city, and the evening schools are free to all persons over 14 years of age residing in the city.

§ 405 **Teachers' retirement fund.**

1 *Trustees.* The commissioners of schools, the superintendent of schools, one principal and one teacher of the public schools, constitute a board of trustees of the teachers retirement fund. In September of every odd numbered year,

a meeting of all the principals and teachers of the public schools must be called by the superintendent, at which one principal and one teacher then in active service shall be chosen to serve for a term of two years on the board of trustees.

2 *Sources of fund.* The teachers retirement fund, in addition to the moneys therein, consist of:

a All donations, legacies and gifts made to said fund.

b Two per centum of the annual salaries respectively paid to the superintendent of schools, supervisors, principals and teachers regularly employed in the public schools of the city, to be deducted by the city treasurer in two semiannual instalments and credited to the retirement fund; except that no deductions are to be made from the salaries of the superintendent and supervisors now in office who have not become qualified to participate in the benefits of the retirement fund; or from the salaries of superintendents and supervisors hereafter appointed who do not within one month after appointment give notice in writing to the board of trustees of his or her desire to participate in the benefits of the retirement fund.

c An amount to be paid each year from the funds appropriated by the city of Rochester for the department of public instruction, equal to one-half the total sum deducted from the salaries of the superintendent, supervisors, principals and teachers for that year. The amount thereof must be deducted by the city treasurer in two semiannual instalments and credited to the retirement fund.

d All moneys which may be obtained from other sources or by other means duly and legally devised for the increase of the retirement fund by the board of trustees or with their consent.

3 *Payments from fund.* No moneys may be paid from the teachers retirement fund, until the amount and payment thereof has been approved by a vote of the board of trustees.

4 *Retirement on pensions.*

a In case the board of education retires from service or refuses to reappoint to service any supervisor, principal or teacher who has served in such capacity or capacities for an aggregate period of twenty years if a female, and twenty-five years if a male, the person so retired or refused reappointment thereupon becomes an annuitant under the retirement fund, provided that not less than fifteen years of such service have been performed in the public schools of Rochester, and in case of a superintendent or supervisor that he or she has become entitled to the benefits of the retirement fund.

b Any superintendent, supervisor, principal or teacher who has served in such capacity or capacities for a period of thirty years if a female, or thirty-five years if a male, may, with the consent of the board of education retire from service and become an annuitant under the retirement fund, provided that not less than fifteen years of such service have been performed in the public schools of Rochester, and in case of a superintendent or supervisor that he or she has become entitled to the benefits of the retirement fund.

c *Amount of annuity.* An annuity paid from the teachers retirement fund is one-half the amount of the annual salary of the annuitant at the time of retirement

from service, not exceeding, however, eight hundred dollars. But if the moneys in the retirement fund are at any time inadequate to fully pay all annuities payable therefrom, the board of trustees may then direct the payment to the persons entitled to participate in said fund as near a pro rata amount as in their judgment the circumstances will warrant.

5 *Amount of contribution.* No person may become an annuitant who has not contributed to the teachers retirement fund an amount equal to at least forty per centum of his or her annual salary at the time of retirement, but any person otherwise qualified may become an annuitant by making a cash payment to the retirement fund of such an amount as his or her contributions may have fallen short of the required forty per centum.

6 *Refund of contributions.* If at any time a superintendent, supervisor, principal or teacher who is willing to continue service in the public schools of the city is not reemployed or is discharged before the time when he or she would be entitled to an annuity, then there must be paid back to such person, without interest, all the money which may have been deducted from his or her salary for the retirement fund.

ARTICLE I

Section 14 **Elective officers.** The officers elected by the electors of the city are: . . . five commissioners of schools. . . .

§ 16 **Qualifications.** Every person appointed or elected to office must reside in the city at least five months previous to his election or appointment. . . .

§ 17 **Term of office of elective officers.** The term of office of each elective officer commences on the 1st day of January succeeding his election and is for a period of two years, except that the term of office of commissioners of schools . . . is four years. . . .

§ 20 **Official oath and undertaking.** Every officer, before entering upon his duties, must file with the city clerk the constitutional oath of office, and if required by ordinance of the common council, an undertaking in the amount required by such ordinance, approved by the mayor as to the sufficiency of the sureties and by the corporation counsel as to its form and validity. In case any officer fails to file the oath of office or an undertaking if required, within fifteen days after the commencement of his term of office, if an elective office, and if an appointive office, within fifteen days after he enters upon his duties, his office is deemed vacant and the vacancy must be filled as herein provided. The board of estimate and apportionment may from time to time authorize the payment by the city of the whole or any part of the annual premium for the undertaking of the city treasurer. (*As amended by L. 1910, ch. 250.*)

§ 21 **Fixed salaries.** The annual salary of . . . each commissioner of schools, twelve hundred dollars; . . .

§ 22 **Power to authorize expenditures.** . . . the separate boards provided for in this act or otherwise by law . . . are empowered to authorize expenditures of money in their respective departments. . . . Such power to author-

ize expenditures of money is subject to the methods and limitations otherwise imposed by this act or by law as to the expenditure of money.

§ 23 **Expenditures in excess of appropriations prohibited.** No board is permitted during any fiscal year to expend or contract to be expended any money, or to enter into any contract which by its terms involves the expenditures of money in excess of the amounts appropriated in the annual estimate adopted by the common council or otherwise lawfully added thereto for such . . . board. . . . Any officer of the city making or voting for any contract prohibited by this section, or certifying any account or claim or making any requisition prohibited thereby, is guilty of a misdemeanor.

§ 24 **Additional fees or compensation not to be paid.** No officer of the city receiving a stated salary or compensation, except corporation counsel, may have or receive to his use any prerequisites, compensation or fees for services pertaining directly or indirectly or which may hereafter be added to the duties of his office, in addition to his salary; . . .

§ 25 **Officers not to be interested in contracts.** Every officer and employee of the city is prohibited from being interested, directly or indirectly, in any contract to which the city is a party, either as principal, surety or otherwise; or in any purchase from or sale to the city, . . .

§ 26 **Restrictions as to holding office.** No person may at the same time hold more than one city office, and upon the acceptance of a second office the first office becomes vacant. . . .

§ 28 **Estimates of departments.** On or before the 1st day of November in each year all heads of departments . . . must furnish to the mayor estimates in writing of the amount required for expenditures for the next fiscal year . . . provided, however, that the estimate of the department of public instruction must be submitted on or before the 31st day of December in each year.

§ 29 **Annual reports.** All heads of departments, boards, . . . empowered to authorize expenditures of money, must present to the mayor, on or before the 31st day of December in each year, a report of their proceedings during the current year.

§ 30 **Vacancies.** Vacancies in elective offices arising otherwise than by expiration of term are filled as follows: . . . if in the office of . . . commissioner of schools, it is filled by appointment by the mayor for the unexpired term; . . .

§ 31 **Resignations.** Resignations of elective officers must be made and presented to the mayor, . . .

ARTICLE IV

§ 62 **Annual estimate.** Within forty-five days after the commencement of each fiscal year the board of estimate and apportionment must make an itemized statement in writing of the estimated revenues and expenditures of the city for the fiscal year. The estimate of expenditures must contain an estimate of the several amounts of money which the board of estimate and apportionment

deems necessary to provide for the following departments, . . . department of public instruction, . . . also the amounts of money required to be paid into sinking funds, the money required for interest on bonds. . . . The estimate of expenditures for the department of public instruction must not be less than a sum equal to twenty-five dollars per capita, based on the total number of persons enrolled as pupils in the public schools for the year ending on the preceding 31st day of December. After the annual estimate has been completed, the board of estimate and apportionment must submit the same in final form to the common council, with a statement in writing of such reasons for such estimate as it may deem proper. (*As amended by L. 1914, ch. 342.*)

§ 63 **Annual appropriations.** . . . When any moneys or revenues are received by the . . . [board of education] from any source other than by municipal tax and which are not otherwise appropriated or directed by law to be applied, such moneys or revenue may be used and applied toward and in addition to the funds appropriated as aforesaid, in such manner as the board of estimate and apportionment may direct.

§ 64 **Emergency fund.** The board of estimate and apportionment may create in any department, bureau, board, court or office for which moneys are appropriated in the annual estimate, from the moneys so appropriated, an emergency fund not exceeding the sum of one thousand dollars, which sum may be expended by the board or officer empowered to authorize expenditures, subject to such rules and regulations therefor as the board of estimate and apportionment may make; and claims must thereafter be presented for the moneys so expended, and audited in the same manner as other claims, and when so audited the moneys must be repaid into said fund; provided, however, that the balance therein at the end of the year must be applied as are other unexpended balances of the department, bureau, board, court or office. (*As amended by L. 1911, ch. 384.*)

§ 90 **Ordinance for acquisition of real estate for school purposes.** Whenever the board of education reports to the common council that it is unable to purchase real estate, rights or easements deemed necessary by it for school purposes, the common council may pass an ordinance containing a description of the real estate, rights or easements to be acquired, and declaring its intention to acquire the same, and that it deems the same necessary for municipal purposes, and directing the corporation counsel to institute condemnation proceedings for the acquirement of the same.

§ 94 **Power to establish playgrounds.** The common council has power by ordinance to locate and establish playgrounds, and to determine that a small park or square, or a part thereof, may be used for other than park purposes, and to thereupon place it or such part thereof under the control of the proper department, board or office.

§ 96 **Issue of bonds and notes.** The common council has power from time to time to borrow money for city purposes and to cause to be issued therefor, in amounts designated by it, notes of the city signed as directed by it and run-

ning for a period not exceeding eight months, and bearing interest at a rate fixed by the common council, or at its option by competition, not exceeding the legal rate of interest per annum, and bonds of the city, signed by the mayor and treasurer, sealed with the corporate seal and countersigned by the comptroller, and at the option of the common council, by a transfer agent designated by it, payable and transferable at such places as the common council may designate, running for a period or different periods determined by the common council not exceeding thirty years, bearing interest at a rate fixed by the common council not exceeding the legal rate of interest per annum; such notes and bonds to be sold under the direction of the comptroller, after competition, upon sealed proposals, at not less than par. The common council has power to create a sinking fund for the redemption of bonds herein authorized, and to provide that there must be deposited therein annually fixed sums or percentages of the appropriations or revenues of the department, board, bureau or office for the benefit of which the bonds are issued; or it may provide that a certain sum must be raised annually by taxes and added to such sinking fund; or it may provide other means of paying or redeeming the bonds at maturity, or it may redeem the same by the issue of new bonds; or it may issue the same without creating a sinking fund, or making other provisions for the redemption thereof. The provisions of any general law or special law do not apply to the issuance and sale of the notes and bonds herein authorized. (*As amended by L. 1910, ch. 250; L. 1912, ch. 55.*)

§ 105 **Adoption of annual estimate.** The common council must, as soon as possible, after receiving the annual estimate, convene and consider the same and give a public hearing to all persons wishing to be heard in reference thereto. The common council must not increase any item contained therein, but has power to diminish or reject any item contained therein, except those relating to indebtedness, judgments or estimated revenues; provided, however, that the items for the department of public instruction must not be reduced to less than a sum equal to twenty-five dollars per capita, based on the total number of persons enrolled as pupils in the public schools for the year ending on the preceding 31st day of December. After the public hearing and within thirty days after the annual estimate has been submitted to it, the common council must adopt the same as submitted or as amended by it, and enter it upon its minutes.

§ 142 **Claims against city must be audited.** Except as otherwise provided in this act in relation to claims for damages and injuries, all claims against the city must be presented to and audited by the comptroller before payment.

§ 143 **Form and audit of claims.** Claims must be filed with the comptroller in the name of the person, firm or corporation presenting the same, in the form prescribed by the comptroller, verified by or on behalf of the claimant and approved by the head of the department, president of the board, judge of the court, or officer whose action gave rise or origin to the claim; . . .

§ 156 **High school sinking fund.** The high school sinking fund is continued with the moneys contained therein. There must be added thereto each year until

the high school bonds are paid and redeemed the balance remaining unexpended at the end of the fiscal year of the moneys appropriated for the department of public instruction and of school moneys appropriated to or provided for the city of Rochester; and if the sum so unexpended does not amount to thirty thousand dollars in any year, then the treasurer of the city of Rochester must transfer to said fund from the moneys appropriated the succeeding fiscal year for the department of public instruction, a sum which, with such unexpended balance, will equal the sum of thirty thousand dollars.

§ 157 **School sinking fund.** For the purpose of providing a school sinking fund to pay and redeem school bonds now or hereafter issued, authorized by chapter 549 of the Laws of 1906, the treasurer must, in the year 1911 and in each year thereafter until said fund contains a sum sufficient to pay and redeem such bonds, take from the moneys appropriated for the department of public instruction, the sum of twenty-five thousand dollars and credit the same to the school sinking fund.

§ 149 **Management of teachers retirement fund.** The comptroller, under the direction of the board of trustees of the teachers retirement fund, has the investment and management thereof, and may, with the approval of the board of trustees, invest the moneys thereof in bonds and notes of the city and other securities.

§ 163 **Custodian of pension funds.** The treasurer is the custodian of the police pension fund, fire pension fund, and teachers retirement fund; and all pensions granted in pursuance of the provisions of this act and payable from any of said funds must be paid out on a check or draft signed by the treasurer and countersigned by the comptroller.

ROME

Chapter 650, Laws of 1904

An act to revise the charter of the city of Rome

TITLE XIII

THE BOARD OF EDUCATION

199 The public schools within the corporation tax district, of the city, as now or hereafter constituted and bounded, including all the territory and residents within such tax district, shall constitute one union free school district and be known as the union free schools of the city of Rome, and be under the charge and control of six commissioners of schools, who shall constitute the board of education thereof.

200 The schools, territory and residents, outside said corporation tax district shall continue to be or become independent school districts to be managed and controlled according to the Consolidated School Law and amendments, supplemental or substituted acts thereto and thereof, in all respects as in towns, and shall be subject to the jurisdiction of and have the same relation to the commissioner of schools of the third district of Oneida county and the Superintendent of Public Instruction as the said law may provide or require, and the residents of said district arrange. That portion of the said city lying outside of said tax district and which now is a part of said union free school district shall henceforth become a part of such independent district.

201 The title of all school property, real and personal, in such tax district, shall be vested in the city.

202 All provisions of title 8 of the Consolidated School Law and all those of the University Law of the State now in force, and as hereafter amended and the substitutes thereof, and the powers, duties and liabilities therein, relating to union free school districts and trustees, shall apply to said city schools and board of education, so far as applicable or requisite to carry out the purposes hereof, except as herein otherwise provided or as inconsistent herewith. Title 5 of this act not inconsistent with, shall be applicable to this title.

203 The present board of education shall continue, and the members thereof, hold for the respective terms as now classified and existing to which they were elected, and until their successors are elected and duly qualified, except as hereinafter mentioned.

204 On the second Tuesday of October in each year, or if that day shall pass without an election, on such subsequent day and at such place as the board of education shall appoint an election of members of the board of education whose terms will in that year expire, shall be held under the direction of the members of said board designated by the board and by the votes of electors of said district in said city having the qualifications of voters for trustees of school districts.

Two poll clerks shall be appointed by said board to register at such election the names and residents¹ of the voters voting thereat. The polls shall be kept open during the hours which the board shall prescribe and the election to be conducted in the same manner as elections for trustees, and a certificate of the result thereof shall be made and signed by the members of the board presiding thereat, and filed in the office of the city clerk. At every such election two members of the board of education shall be chosen for the term of three years from the second Tuesday of October, on which the terms of their predecessors expire. Any vacancy existing in the board at the time of any such election shall be filled thereat by an election for the unexpired term. Any person qualified to vote at such election shall be qualified to become a member of such board. In case of the death or resignation of any member of said board the vacancy may be filled by the board until the next regular school election and until his successor shall qualify. No person shall vote at any such election of members of the board of education, unless a resident within said corporation tax district.

205 The board of education shall have power to choose a superintendent of schools, whose term of office shall be one year, but who shall be subject to removal by said board at any time for cause. Such superintendent shall be paid such compensation and perform such duties as the board may prescribe.

206 Detailed estimates of the amounts so required to be raised shall be furnished to the common council and filed with the city clerk as in section 148 of this act provided. In case the common council shall ratify the estimates of expenditures so submitted, the amount of such estimates shall constitute the sum to be raised for the school board by taxation for the current fiscal year; the common council may modify any item of the estimates for expenditures so submitted, and in such case it shall be the duty of the city clerk to forthwith certify to the president of the board of education such modifications; the board of education shall have power by the vote of two-thirds of all the members thereof at any regular or special meeting called for that purpose, to declare by resolution that the estimated amounts first submitted to the common council, or a less sum, are necessary for the conduct of the schools for the current year; and it shall be the duty of the city clerk to forthwith certify such resolution to the president of the common council, in which case it shall be the duty of the common council to raise the amounts so determined for the purposes of the public schools. In case the board of education shall fail to adopt such original estimates, or a less sum, as above provided, the amounts so modified by the common council shall constitute the amount to be raised for school purposes for the current year. Thereupon the same shall be levied and collected by the common council in the same manner as city taxes as provided in this act. But if such estimates in any year shall include five thousand dollars or more for the purchase, erection, enlargement, alteration or repair of any grounds or buildings or either, or if at any time during the year such board of education may deem it necessary to expend in addition to the amount of such estimates any moneys for any purpose or pur-

¹ So in the original.

poses, the board of education may propose to the common council that such amounts, or any part thereof, as it may propose be borrowed upon the bonds of said union free school district of the city, and the questions of the raising of said amount so proposed to be raised shall be submitted at a special election to be called therefor by the board of education to the taxpayers of the city; the said election to be called and conducted by said board of education in the manner, and to follow, so far as applicable, the provisions of section 175 of this act relative to special elections for extraordinary expenditures, excepting that in case bonds shall be issued by board of education they shall be the bonds of such union free school district, of the city of Rome, and be signed by the president of the board of education and sealed with the seal of said board for the principal amount so proposed to be borrowed by bonds. Except as above provided the board of education shall not have power to expend any money in addition to the amount finally determined, as aforesaid, by such estimates unless authorized so to do by special election in the manner herein provided. Nothing in this act shall be deemed to restrict the power of the board of education to expend for lawful purposes of said schools the moneys received by said board, of the city, from the State. All moneys raised by taxes and received from all other sources for school purposes shall be paid to the city treasurer and placed in a separate fund to be known as a school fund and used only for such purposes. (*As amended by L. 1905, ch. 468.*)

§ 207 Said board of education shall yearly and whenever required so to do by the common council, make and deliver to the common council a detailed statement showing and accounting for all moneys that have been received and expended by or through said board since the date of their last preceding report thereof to the common council.

§ 208 A school tax of the city of Rome for school purposes within the corporation tax district may be assessed by the common council and its warrant issued for the collection of same. The city clerk shall make out the assessment roll and apportion the tax and make a copy thereof for the city treasurer, and all the provisions in relation to the assessment and collection of city taxes, and the return of the same, shall so far as applicable, apply to the school tax.

SALAMANCA

Chapter 507, Laws of 1913

An act to incorporate the city of Salamanca

TITLE XI

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 127 City, permanent school district
128 Commissioners of education
129 Succession of property and obligations
130 Superintendent of schools
131 General powers and duties of president
132 Clerk and his general duties
133 General powers of the commissioners of education
134 Powers of commissioners of education to raise tax for support of schools
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136 Powers of commissioners of education to purchase sites or addition to any site or erect or enlarge any school building
137 Annual report of commissioners of education
138 State Superintendent of Public Instruction to apportion State moneys
139 Common council shall pass ordinance for protection of school property
140 Charges of misconduct or neglect of duty of any commissioner of education
141 Report of superintendent of schools
142 District a union free school district

Section 127 **City, permanent school district.** The said city shall form a permanent school district and shall not be subject to alteration by the district superintendent of common schools. Said school district shall be known as union free school district number 4 of the city of Salamanca. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other State authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to school districts in cities.

§ 128 **Commissioners of education.** The affairs of said school district of the city of Salamanca shall be managed by a board of seven members, to be elected in the manner provided in this act, which board shall be known and designated as the "commissioners of education of the city of Salamanca." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this State.

§ 129 **Succession of property and obligations.** The title to all the real estate and personal property now belonging to union free school district number 4 and school district number 5 of the town of Salamanca and school district number 1 of the town of Great Valley, or so much thereof as may be included within the bounds of the city of Salamanca, and equitably proportioned between said

city and said school districts as hereinafter provided, and all moneys and funds belonging thereto, and so proportioned, shall be paid over and delivered to the comptroller of said city, and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said school districts, or so much thereof as are included within the bounds of said city and which may be equitably proportioned as aforesaid, are hereby transferred to, vested in, and imposed upon said commissioners of education of the city of Salamanca as hereby created, and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by and against said commissioners of education of the city of Salamanca, and its successors in the same manner, and with like effect, as the same might have been enforced by and against the board of education of union free school district number 4 and school district number 5 of the town of Salamanca and school district number 1 of the town of Great Valley, if this act had not been passed, subject, however, to the equitable proportionments thereof as hereinafter provided, and subject to the provisions of this act.

§ 130 **Superintendent of schools.** The said commissioners of education, not later than the 1st of May subsequent to their election, and in each year thereafter, shall appoint a superintendent of schools for the term of one year; such superintendent shall be under the direction of the said commissioners of education, which shall prescribe his powers and duties; he shall be paid from the teachers fund a salary, to be fixed by the commissioners of education.

§ 131 **General powers and duties of president.** The president of the commissioners of education shall preside over meetings of the board when present, and perform such executive acts and duties as is required by this act and general laws, and such other lawful business as shall be given him or her in charge by said board.

§ 132 **Clerk and his general duties.** The city clerk shall be clerk of the commissioners of education, and shall act as secretary and keep the minutes of said board, and shall perform such other duties as may be required by this act and the general school laws of the State, and such other duties as the board may prescribe.

§ 133 **General powers of the commissioners of education.** Subject to the provisions of this act and of the Education Law, the commissioners of education of the city of Salamanca shall have power and it shall be its duty:

1 To establish and organize in said city such and so many free schools as said board shall deem requisite and expedient, and to change or discontinue the same at its discretion.

2 To alter, improve and repair schoolhouses and appurtenances, as it may deem advisable.

3 To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages and to defray the necessary expenses attending the same.

4 To have the custody and safekeeping of the school buildings, lots, out-

houses, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

5 To contract with and employ all necessary teachers for the schools of the city under such conditions, rules and regulations as may be established by the board, provided that such rules and regulations are in accord with the Education Law of the State and the rules and regulations established by the Department of Public Instruction of the State.

6 To audit the salaries of superintendents of schools and teachers which shall be paid by the city comptroller from the school fund upon the order of the president and clerk of said board.

7 To determine the necessary expenses of the board and district, including the wages of janitors and other assistants and employees and incidental expenses, which shall be paid, as above provided.

8 To audit expenditure of all moneys, raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such a manner as may be deemed advisable, but only for the purposes for which the same was raised.

9 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act, and as conferred upon the board of public works for opening of streets and highways.

10 To have, to the exclusion of all boards and officers, except the Superintendent of Public Instruction and the Regents of the University of this State, the entire supervision and management of the schools of said city: from time to time, to adopt, alter, modify, or repeal, as it may deem expedient, rules and regulations for its organization, government, and instruction for the reception of pupils and their transfer from one schoolroom or schoolhouse to another, for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote the good order, efficiency and prosperity of all the schools of the city, and the health and general welfare of the pupils.

11 To allow the children or persons nonresident to attend any of the schools therein under the control of the said board, as provided by the Education Law of the State.

12 To establish and maintain a city school library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts, and to appoint a librarian and fix his compensation.

13 Other than as provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

14 Other than as provided in this act, to exercise all the powers conferred and all the duties imposed by the general laws of the State applicable to boards of education in cities. The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 134 **Powers of commissioners of education to raise tax for support of schools.** On or before the 15th day of October in each year, the said commissioners of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year commencing with the 1st day of January next ensuing for each of the following purposes:

1 For wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

2 For the maintenance of a high school, if one shall have been established, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto.

3 For the repair of schoolhouses, outhouses and grounds with the appendages and appurtenances.

4 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

5 For the purchase of fuel and lights and to pay contingent expenses of the district, including the salaries of janitors, assistants, employees and incidental expenses.

Before the meeting of the commissioners of education at which aforesaid statement is prepared, the said commissioners of education shall give to the mayor official notice thereof and the mayor shall attend said meeting and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the commissioners of education shall finally have determined on the statement of expenses itemized as heretofore indicated, it shall present the same to the mayor or acting mayor of the city of Salamanca. If the mayor or acting mayor approves such statement he shall sign it, and immediately file the same with the city clerk; if he does not approve any item therein he shall within ten days return the statement with his objection indorsed thereon or annexed thereto to the commissioners of education. Said board shall then proceed to reconsider such statement, and if two-thirds of the members then in office agree to sustain the statement as made, it shall stand as if it had been approved by the mayor, and shall be immediately filed with the city clerk. If two-thirds of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform to the views expressed by the mayor in his objection and he shall then sign it and file it with the city clerk. When such statement is filed with the city clerk the common council of said city shall include in the annual tax and assessment roll for that year the amount specified in said statement and the same shall be collected by the city comptroller, who shall credit the same to the general school fund of the commissioners of education.

§ 135 **Payment of funds to comptroller.** All public moneys or public funds belonging or appropriated to the use of said school district number 4 of the city of Salamanca, shall be paid to the comptroller of said city, who shall keep the same separate from the general funds of the city and shall credit to the school fund the moneys or property belonging thereto. The commissioners of education shall disburse, after due audit, all the school funds of said district by orders

upon the comptroller signed by the president and clerk; said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person to whom payable. Upon request from said board, the comptroller shall certify, from time to time, the balance remaining to be collected by or paid to the city comptroller for school purposes; it shall not be lawful for said comptroller to apply such moneys, or any part thereof, to any other purpose or object.

§ 136 **Powers of commissioners of education to purchase sites, or addition to any site or erect or enlarge any school building.** Whenever the commissioners of education shall resolve by an affirmative vote of two-thirds of its members that it is necessary to purchase a site or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the ward within which such site is to be purchased or building erected or enlarged and the particular sum required for each separately. The commissioners of education shall then deliver a certified copy of such resolution to the mayor who shall, within thirty days of the receipt of such resolution, call a special election of the electors of said city to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and manner prescribed for conducting special elections provided elsewhere in this act. In case three-fifths or sixty per centum or more of the votes cast be in favor of any said appropriations, the common council shall borrow upon the faith and credit of said city, the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The common council shall issue bonds or other evidence of indebtedness, in such forms as it may prescribe at an annual rate of interest not exceeding five per centum, and payable at such times and in such amounts as the common council shall determine. Said bonds or any part thereof may be sold by the common council in such a manner as it may deem best, but at not less than the par value thereof. The commissioners of education, after completing the work or other objects for which said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this act.

§ 137 **Annual report of commissioners of education.** It shall be the duty of the commissioners of education, on or before the 10th day of January in each year, to make to the common council of the city a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year of the said commissioners of education; and such report shall be published by the common council in connection with, and as a part of, the annual report of the financial transactions of the city, which they are required by law to have printed and circulated.

§ 138 **State Superintendent of Public Instruction to apportion State moneys.** It shall be the duty of the Superintendent of Public Instruction of

this State to apportion for the use of the said commissioners of education of the city of Salamanca, such portions of the school, school library and other public money as it shall be entitled to by its annual report, in the same manner in which such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Cattaraugus county. The said county treasurer of Cattaraugus county shall pay over to the city comptroller of the city of Salamanca, for the use of the commissioners of education of said city, such proportion of the school, school library and other public money as may be apportioned by law or by the Superintendent of Public Instruction of the State to the commissioners of education of the city of Salamanca for teachers' wages, school library and other school purposes.

§ 139 **Common council shall pass ordinances for protection of school property.** The common council of the city of Salamanca shall have the power, and it shall be its duty, to pass such ordinances and by-laws as the commissioners of education of said city shall report necessary for protection, safekeeping, care and preservation of the school buildings and other school property of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 140 **Charges of misconduct or neglect of duty of any commissioner of education.** Charges of misconduct, or violation or neglect of duty, on the part of any member of the commissioners of education, may be presented to said board by any member thereof, or by any elector of the city of Salamanca, and such charges shall be duly examined by such board, at a regular or special meeting, of which the accused member shall have at least five days' notice, but at which meeting said accused member shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, said board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the proceedings of the meeting, shall be transmitted by the clerk of the commissioners of education to the Superintendent of Public Instruction of the State, and upon his approval of the findings of the board, the accused member shall be removed and his place deemed vacant. All vacancies in the commissioners of education, occasioned by the resignation, refusal to serve, death or removal of any of its members, shall be filled for the unexpired term by appointment by the mayor, subject to confirmation by the common council.

§ 141 **Report of superintendent of schools.** The superintendent of schools of the city of Salamanca shall confer with, and act under the direction of the commissioners of education of said city in the performance of his duties. He shall, subject to the direction of said board, have general control and supervision of the public schools in said city and of the teachers employed therein and shall on or before the 1st day of July in each year, or at such other time or times, as shall be required by said board, report in writing to the commissioners of education on the following subjects:

1 The whole number of schools within the jurisdiction of the commissioners of education, their cleanliness and their sanitary condition.

2 The repairs or alterations, if any, that are necessary for each of said schools.

3 The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary.

4 The number of teachers employed in the several schools, their grade of work, and their efficiency, with suggestions as to the increase or decrease in the number thereof.

5 The number of pupils registered at each school, the average daily attendance and also the number of pupils enrolled in each grade in the several schools.

6 Such changes in the organization and curriculum of any or all of the schools as he may deem advisable.

7 Such other information in relation to the city schools as may be of interest to the people of Salamanca.

§ 142 **District a union free school district.** The said district shall be deemed and is hereby declared to be a union free school district under the laws of this State relating to public instruction. All provisions of law, not inconsistent with the provisions of this act, applicable to school districts whose limits correspond with any incorporated city, and the board of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the commissioners of education thereof and to the corporate authorities of the city of Salamanca.

SARATOGA SPRINGS

Chapter 229, Laws of 1915

An act to incorporate the city of Saratoga Springs

Section 120 The public schools within the inside tax district shall be counted one school district. Such school district shall be governed and controlled in all respects by chapter 353 of the Laws of 1862. Such district shall be known as "The union free school district of the city of Saratoga Springs"; and said school district, for the purposes of the apportionment and distribution of school money which, from any source collected or received, shall be a school district under the general school laws of the State. The board of education of said school district shall certify the amount or amounts needed for the support of the schools within such corporation tax district in the same manner as the other departments of said city of Saratoga Springs. The school districts outside of said corporation tax district shall be under the same supervision and control as the other common schools in Saratoga county, and they shall be under the control of the general school laws of the State as in towns.

Chapter 353, Laws of 1867

An act to consolidate the several school districts and parts of districts within the corporate limits of the village of Saratoga Springs, and to establish a free union school or schools therein

Section 1 All school districts or parts of school districts within the corporate limits of the village of Saratoga Springs, in the county of Saratoga, are hereby consolidated into one school district, to be called the "Union free school district of Saratoga Springs," and said school district, for the purpose of the apportionment and distribution of school money which, from any source may be collected or received, shall be a school district under the general school laws of the State.

§ 2 The school or schools in said school district shall be under the management and control of nine trustees, being taxable inhabitants of said district, who shall be denominated "The board of education of the union free school of the village of Saratoga Springs"; and said board is hereby constituted a body corporate, with all the powers conferred and duties enjoined upon them by this act, and shall have a corporate seal such as said board may designate. The first board of education under this act shall be constituted as follows: Oliver L. Barbour, James B. McKean and John Shipman, as trustees of the first class, whose term of service shall expire on the fourth Tuesday of October, 1868; Joseph A. Shoudy, Thomas Flanigan and Aaron Hill, as trustees of the second class, whose term of service shall expire on the fourth Tuesday of October, 1869, John Woodbridge, John Palmer and Charles S. Lester as trustees of the third

class, whose term of service shall expire on the fourth Tuesday of October, 1870. And thereafter the term of service of the class which has served the longest period, shall expire on the fourth Tuesday of October in each year. The trustees of the village of Saratoga Springs shall order a special election, to be holden on the second Tuesday of October in each year, except the year 1867, at one of the schoolhouses, under the inspection of said trustees, to elect three trustees as members of said board of education, at which election any vacancies that may have occurred during the year, may be filled. At said election the polls shall be open from ten o'clock a. m. until four o'clock p. m. of that day, and only those entitled to vote at the ordinary school elections shall be entitled to vote. (*As amended by L. 1867, ch. 787.*)

§ 3 The board of education above named shall hold its first meeting within two weeks after the passage of this act, at a time and place to be designated by the member of the board first named in the second section of this act. The members of the board shall take the usual oath of office, and shall elect a president from among their number, who shall hold his office during the pleasure of the board. No member of the board shall receive compensation for any official service, nor shall he be interested, directly or indirectly, in any contract, purchase or expenditure which the board at any time may order.

§ 4 The said board of education shall meet for the transaction of business as often as one in each month, and may adjourn for any shorter time. Special meetings may be called by the president, or in case of his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence, at least twenty-four hours previous to the hour appointed for such special meeting.

§ 5 The title to all the real and personal estate appertaining to the schools heretofore mentioned, shall be vested in the board of education, and the same shall not be subject to taxation or assessment for any purpose whatever.

§ 6 The board of education shall have power and is hereby directed:

1 To establish and organize in said village as many and such public schools, with graded departments (including an academical department), and schools for colored children, as said board may deem requisite and expedient, and to alter or discontinue the same at its discretion.

2 To rent or purchase and prepare such houses or rooms as may be found necessary for properly conducting such schools, but no entirely new structure designed for the academical department, to be erected until after the expiration of three years from the passage of this act.

3 To purchase, exchange, improve and repair any school apparatus, books, furniture or appendages, and to defray the expense of the free library.

4 To have the custody and safe-keeping of all the schoolhouses, outhouses, books, furniture and appurtenances, and to see that all the village ordinances and rules of the board of education relative thereto are observed.

5 To contract with and employ all necessary teachers, subject to removal at the pleasure of the board.

6 To provide evening schools for the benefit of those whose ages or avocations are such as to prevent their attendance upon the day schools established under this act.

7 To pay the wages of such teachers out of the fund appropriated and provided by law for this purpose.

8 To defray the necessary contingent expenses of the board, including the wages of janitors.

9 To expend all moneys raised in accordance with this act for buildings, for the purchase of grounds, or for any other purposes for which the same may be required, in such manner as they may deem proper.

10 To have the superintendence and management of the common schools in said village, and, from time to time, to adopt, alter, modify or repeal, as they may deem expedient, any rules or regulations for the organization, government and instruction of said schools, for the reception of pupils, their transfer from one department to another, for their advancement from class to class, as their degree of scholarship shall warrant, and generally for the promotion of the good order, prosperity and public utility of said schools; and if at any time an academical department shall be established by said board, it shall be entitled to its distributive share of the literature fund, in like manner and on like conditions with the academies of this State and shall be subject to the visitation of the Regents of the University, as are the other academies of the State.

11 To sell and dispose of such real and personal property as may become unnecessary for the purpose of conducting said schools, and pay over and deliver the proceeds of any such sale or sales to the treasurer of the village of Saratoga Springs, as provided by section 8 of this act. (*Subd. 11; as added by L. 1868, ch. 630.*)

§ 7 It shall be the duty of the board of education, on or before the 1st day of April in each year, after the year 1867, to determine and certify to the corporate authorities of the village of Saratoga Springs, what sums are necessary under section 6 of this act, exclusive of such moneys as are to be received from public funds. These sums shall be raised and collected at the same time and in the same manner as other village taxes. And the board of education shall have power to raise, when necessary, by loan, in anticipation of the collection of such taxes, any sum required to meet the ordinary expenses of the schools.

§ 8 The treasurer of the village shall take charge of all moneys raised pursuant to this act or provided for the board of education from any source, and he shall be accountable for their safe-keeping in the same manner as for the safe-keeping of other funds. These moneys shall be paid out by him only on drafts drawn by the president of the board of education, and countersigned by the secretary, in pursuance of a resolution of the board; and all drafts shall be made payable to the order of the person or persons receiving the same.

§ 9 The board of education shall elect a secretary, who shall hold office during the pleasure of the board; but he shall not be removed, except for inefficiency or misconduct, without six months' previous notice. The board shall fix his salary, and he shall be the superintendent of all the schools under the care of the board.

He shall, under the direction of the board, determine the course of studies to be pursued in the different schools and shall himself have the personal superintendence of the highest school established.

§ 10 The secretary of the board shall report to the board of education, on or before the 1st day of September in each year, the condition of all the departments in the schools, with the number in attendance, the studies pursued, and whatever, in his opinion, may be needed to advance the interests of the union free school. This report shall also state the number of children within the limits of the districts who are in attendance upon private schools and of such as do not attend any school. The secretary shall, on or before the 1st day of March in each year, furnish to the board estimates of the number of teachers needed, and of the ordinary expenses to be incurred, for the year following said date. (*As amended by L. 1885, ch. 313.*)

§ 11 Each member of said board shall visit all the schools in said district, at least twice in each year of his official term, and said board of education shall provide that each of said schools shall be visited by a committee of three or more of their number at least once in each term.

§ 12 The said board of education shall be trustees of the school libraries of said district, and all the provisions of law which now exist or hereafter may be passed relative to school-district libraries shall apply to said board in the same manner as if they were trustees of a school district comprehending said village; they shall also be vested with the same discretion as to the disposition of moneys appropriated by the laws of this State for the purchase of libraries as is conferred by said law on the inhabitants of school districts. It shall be their duty to provide rooms for such libraries, and the necessary furniture therefor. The librarian shall report to the board the condition of the libraries under his charge; and the said board, or secretary, under the direction and by the resolution of said board, may make all purchases of books for said libraries, and may direct the mode of their distribution; and may dispose of any books that may be deemed useless, applying the proceeds to the purchase of new ones.

§ 13 The board of education shall have power to take, hold, sell, transfer and convey any of the real or personal estate transferred to it by gift, grant, devise or bequest for the benefit of any of the schools under its control, and appropriate the avails in scholarships or prizes, or in such other manner as the donor may designate.

§ 14 The clerk of the village shall notify any person elected a member of the board of education, within ten days thereafter, of his election, and the secretary of the board shall notify him of the time and place of the meeting, at which he shall take his place as a member of said board.

§ 15 The board shall have power to charge a tuition fee for all pupils attending the high school, but such fees shall not exceed the sum of five dollars per term for each pupil residing in the district;¹ but the board may determine the amount of tuition fee for pupils not belonging to the district, in attendance upon any of the schools.

¹ L. 1867, ch. 406, § 26, abolished all rate bills for teachers' wages.

§ 16 The board shall cause to be prepared and presented to the trustees of the village, and published in the newspapers in the district, at such time as they may direct, a full annual report, stating:

1 What schools have been kept during the year, and for what time.

2 The number of children on the roll of each school, and the average attendance of each; and the number of children in the district between the ages of four years and twenty-one years.

3 The amount of school moneys received by the treasurer, from what sources, and for what purposes expended.

§ 17 The trustees of the village of Saratoga Springs are hereby directed and empowered, and it shall be their duty, to raise and collect by tax, in the same manner as other taxes are collected, such sums as the board of education hereby established shall deem needful in order to organize and carry on the schools of the district until the time named in section 7 of this act.

§ 18 The board of education shall meet all liabilities of the trustees of school districts numbers 1, 2, 8 and 9, in the town of Saratoga Springs, and shall succeed to all their rights and rights of action, and nothing in this act shall impair their contracts or interfere with or prevent the collection of such tax or rate bill as at the time of the passage of this act was in the hands of the collector for collection.

§ 19 This act shall take effect immediately.

Chapter 787, Laws of 1867

An act to amend an act entitled "An act to consolidate the several school-districts and parts of districts within the corporate limits of the village of Saratoga Springs, and to establish a free union school or schools therein "

§ 2 A majority of the trustees constituting the board of education shall constitute a quorum for the purpose of organization or the transaction of any business at any of the regular meetings of the said board, and at any special meeting when all the trustees have been notified as required by said act.

Chapter 630, Laws of 1868

An act to amend an act entitled "An act to consolidate the several school districts and parts of districts within the corporate limits of the village of Saratoga Springs, and to establish a Free Union School or schools therein," passed April 12, 1867

§ 2 The board of education shall have power to fill any vacancies which may exist or occur by reason of the death, resignation, removal or refusal to act, of any member of said board appointed or elected, and the person and persons so appointed shall hold such office until the first election succeeding such appointment, when such vacancy shall be filled by election in the manner provided by section two of said act.

SCHENECTADY

Chapter 481, Laws of 1908

An act to provide for a department of public instruction in the city of Schenectady

- Section 1 Department of public instruction established
2 Appointment of president and superintendent, et cetera
3 General powers and duties
4 Superintendent of schools
5 Powers and duties of superintendent
6 Appointment of assistant teachers; terms of principals
7 School buildings, repairs, sale and erection of
8 Public school moneys
9 Termination of terms of present commissioners
10 Laws repealed

Section 1 **Department of public instruction established.** A department of public instruction in and for the city of Schenectady is hereby established. There shall be a board of education, composed of five members, to be called commissioners of education, who shall be appointed as hereinafter provided, which board shall be the head of the department of public instruction. They must have been electors of the city for a period of at least five years immediately preceding the date of appointment. Within ten days after the passage of this act, the mayor shall appoint two commissioners to serve until March 1, 1909, and three commissioners to serve until March 1, 1910. In the month of February of each year preceding the expiration of the term of office of any such commissioner, the mayor shall appoint a successor to hold office for a term of two years from and including the 1st day of March of the year in which he is appointed. In the case of a vacancy in the office of commissioner, the mayor shall fill the vacancy by the appointment of a commissioner for the remainder of the term. The commissioners shall serve without pay.

§ 2 **Appointment of president and superintendent, et cetera.** The board shall appoint one of its members president, who shall exercise all the powers usually incident to such office. It shall also appoint a suitable person other than a member thereof, superintendent of schools in the city, who shall exercise the powers and discharge the duties hereinafter defined, and shall be allowed such compensation for his services as the board of estimate and apportionment may at any time determine. It shall also appoint from time to time such other employees including teachers and attendance officers as the school system may require, except that the janitors of all the school buildings shall be appointed by the commissioner of public works, and such janitors shall be subject to his immediate direction and control; the amount of their compensation shall be fixed by the board of estimate and apportionment. It has the care, custody and

safekeeping of all school property, real and personal, except as hereinafter provided: and shall make rules and regulations for the government of the schools and its employees except as to janitors and as hereinafter provided; prescribe courses of study and textbooks; supply the requisite stationery for the use of indigent pupils; provide the several schools with the necessary school apparatus, maps and music books, the expense thereof to be defrayed out of the school moneys of the city. No member of the board shall be eligible to appointment or employment by the board.

§ 3 **General powers and duties.** The board has all the powers and is charged with all the duties of commissioners of common schools, and of trustees of the several school districts in this State, under the general statutes relating to common schools, so far as such powers and duties can be made applicable to the schools herein provided for, and are not inconsistent with the provisions of this act and of chapter 473 of the Laws of 1906.

§ 4 **Superintendent of schools.** The superintendent of schools shall hold office during the pleasure of the board. Any person may prefer charges in writing of incompetency, maladministration or misconduct in office against the superintendent, and thereupon the board shall proceed to hear the charges, and in case the same shall be sustained by the affirmative votes of a majority thereof the superintendent shall be dismissed from his office.

§ 5 **Powers and duties of superintendent.** The superintendent has power and it is his duty to see that all rules and regulations of the board are complied with by the principals and teachers; to determine the different grades of study which shall be pursued in the various departments of the several schools; to transfer teachers from one school to another, or from one grade to another; to suspend any teacher temporarily for cause, provided, however, that the reasons for such suspension shall be immediately transmitted to the board in writing; to transfer pupils from one school to another; to prescribe rules and regulations for the admission, examination and promotion of pupils; and he shall have charge of the school libraries.

§ 6 **Appointment of assistant teachers; terms of principals.** All assistant teachers shall be appointed for a probationary period of one year, at the expiration of which term, unless satisfactory evidence of incompetency is submitted by the superintendent, the probationer may be elected by the board. Thereafter such teacher shall hold the position during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of a majority of the board. All probationary appointments shall be made from the head of a merit list, upon which the names of all eligible candidates for appointment as assistant teachers shall appear in the order of their rank in scholarship and qualifications for teaching; and it shall be the duty of the board to prescribe by rules not inconsistent with the laws of the State the means of determining such rank in scholarship and qualifications. All principals shall hold their positions during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of at least a majority of the board.

§ 7 **School buildings, repairs, sale and erection of.** Whenever in the opinion of the commissioner of public works any repairs are needed to the public school buildings in the city, the commissioner of public works shall make such repairs. The board of education shall recommend to the common council, when in its opinion the public interests require, the sale of any schoolhouse, the purchase or lease of any land or building for a schoolhouse, and when authorized thereto by an ordinance of the common council, the board of contract and supply may make such sale, purchase or lease in the manner as provided for by chapter 473 of the Laws of 1906; and it may recommend to the common council the erection of any school building; and when authorized thereto by an ordinance of the common council, the board of contract and supply may erect such buildings in the manner and upon the conditions prescribed in chapter 473 of the Laws of 1906.

§ 8 **Public school moneys.** All public money apportioned or appropriated to or for the city, or to or for any of the school districts therein, or for the school libraries, shall be paid by the proper officers to the treasurer, and in the accounts kept by him shall be credited to the department of public instruction and paid out by him upon bills properly allowed and audited in the same manner as obtains in the case of other bills against the city.

§ 9 **Termination of terms of present commissioners.** Upon the taking effect of this act the rights, duties, powers and terms of office of the commissioners of common schools in office when this act takes effect shall cease and terminate.

§ 10 **Laws repealed.** All acts or parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed, but such repeal shall not affect any right already existing or accrued, or any liability incurred prior to the passage of this act.

§ 11 This act shall take effect immediately.

Chapter 306, Laws of 1907 ¹

An act to establish a retirement fund for the pensioning of retired school teachers, superintendents, supervisors and heads of high school departments of the public schools of the city of Schenectady, and to regulate the collection, management and disbursement thereof

Section 1 The mayor, the president of the board of education and the comptroller shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by this act. The said board of trustees is empowered to make payment from said fund of the annuities granted in pursuance of this act; to take all necessary and proper action in the premises; and to make such by-laws, rules and regulations as may be necessary or proper, and to provide for the administration and investment of said fund as it may deem best, except that no part of said fund shall be invested in any

¹The teachers of this city have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 1109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this city it has been superseded by the general law.

manner except as the savings banks of the State are by law permitted to invest their funds. (*As amended by L. 1908, ch. 116.*)

§ 2 The public school teachers retirement fund created by this act shall consist of the following moneys with interest or income therefrom, to wit:

a All donations, legacies and gifts which shall be made to said fund.

b One and one-half per centum per annum of the respective salaries paid to the superintendent of schools, principals, supervisors, heads of high school departments and teachers regularly employed in the public schools of Schenectady, who shall within twelve months after the date of their appointment, or before May 6, 1908, as the case may be, signify to the board of trustees that they desire to come under the provisions of this act, provided that the amount deducted from any one salary shall not exceed one per centum of twelve hundred dollars in any one year.

c A sum annually consisting of one and one-half per centum of the payroll of the superintendent of schools, principals, supervisors, heads of high school departments and teachers.

d All moneys which may be obtained from other sources or by other means duly and legally devised for the increase of said fund by the board of trustees or with their consent. (*As amended by L. 1908, ch. 116.*)

§ 3 The board of education in making the payrolls for the superintendent, principals, supervisors, heads of high school departments and teachers hereinbefore mentioned shall deduct from the salary of each of said persons, who shall have signified their intention to become beneficiaries under this act, a sum equal to one and one-half per centum of his or her annual salary, and shall certify the amount of such deduction and the names of the persons from whose salaries such deductions have been made, and such certificate shall accompany the payroll and a warrant for the amount of the deduction so certified shall be drawn upon the treasurer payable to the city comptroller and such amount shall be paid into the retirement fund and duly credited thereto by the comptroller. There shall also be a warrant drawn against the treasurer of the city of Schenectady for a sum equal in amount to one and one-half per centum of the payroll of the superintendent of schools, principals, supervisors, heads of high school departments and teachers, from January 1, 1908, and yearly thereafter to be paid from the excise money to which the city of Schenectady may be entitled by virtue of the provisions of the liquor tax law of the State of New York, payable to the city comptroller, who shall deposit said sum with the city treasurer, who shall retain the same subject to the disposal of said board of trustees as hereinbefore provided. (*As amended by L. 1908, ch. 116.*)

§ 4 The comptroller of said city shall be the custodian of said fund and all orders made payable from this fund shall be made upon the vote of said board of trustees. (*As amended by L. 1908, ch. 116.*)

§ 5 If the board of education of the city of Schenectady shall on recommendation of the superintendent of schools retire from service or refuse to reappoint to service because of mental or physical incapacity, any principal, supervisor, head

of high school department or teacher who having become a contributor to this fund shall have served in such capacity or capacities for an aggregate period of twenty years, if a female, and twenty-five years, if a male, any person so retired or refused reappointment shall become an annuitant under this act, provided that not less than fifteen years of such service shall have been rendered in the public schools of Schenectady, or in the territory annexed thereto by the legislative act of 1903, and provided that he or she shall have come under the provisions of this act in the manner and within the time hereinbefore mentioned.

b Any superintendent, principal, supervisor, head of high school department or teacher who shall have served in such capacity or capacities for a period of thirty years if a female, or thirty-five years if a male, may with the consent of the board of education retire from service and become an annuitant under this act, provided that not less than fifteen years of such service shall have been performed in the public schools of the city of Schenectady, or in the territory annexed thereto by the legislative act of 1903, and provided that he or she shall have come under the provisions of this act in the manner and within the time hereinbefore mentioned. Any female person retired after twenty years of service but with less than thirty years of service, shall receive an annuity which shall bear the same ratio to the annuity provided on retirement after thirty years of service as the total number of years of service of such person bears to thirty years. Any male person retired after twenty-five years of service but with less than thirty-five years of service shall receive an annuity which shall bear the same ratio to the annuity provided on retirement after thirty-five years of service as the total number of years of service of such person bears to thirty-five years.

c Any teacher who has been dismissed by the board of education for cause shall not become an annuitant under this act.

§ 6 Annuities paid in pursuance of this act shall be one-half the amount of the annual salary of the annuitant at the time of retirement from service, except that no annuity shall amount to less than three hundred and fifty dollars nor more than four hundred and fifty dollars annually, but if the moneys at the disposal of the trustees of said fund be found at any time inadequate to fully carry out the provisions hereinabove mentioned, the trustees shall then cause to be distributed such moneys pro rata to the persons entitled to participate in said fund and such distribution shall be in full of all annuities then due. (*As amended by L. 1908, ch. 116.*)

§ 7 No person shall become an annuitant under this act who has not contributed to the teachers retirement fund in pursuance of subdivision 3 of this act, an amount equal to at least forty per centum of his or her annual salary at the time of retirement, provided that this payment shall in no case exceed forty per centum of twelve hundred dollars; but any person who has been a superintendent, principal, supervisor, head of high school department or teacher in the public schools of Schenectady, for the time specified in this act may become an annuitant by making, before receiving any annuity, a cash payment to the retirement fund

of such an amount as his or her contribution under section number 2-*b* may have fallen short of the required forty per centum.

§ 8 No annuity shall be paid from the teachers retirement fund before September, 1907, but any person duly qualified who shall have retired from service before that time shall not be deemed to have forfeited the right to become an annuitant under the provisions of this act.

§ 9 If at any time a superintendent, principal, supervisor, head of high school department or teacher who shall be willing to continue service in the public service in the public schools at Schenectady, shall not be reemployed or shall be discharged before the time when he or she would under the provisions of this act be entitled to an annuity, then such person shall be paid back, without interest, seventy-five per centum of the money which may have been deducted from his or her salary in pursuance of this act.

§ 10 The comptroller shall include in his annual report a full account of the condition of the teachers retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year.
(*As amended by L. 1908, ch. 116.*)

SYRACUSE

Chaper 543, Laws of 1907

An act to provide for a department of public instruction in the city of Syracuse

- Section 1 Department of public instruction established
2 Officers and subordinates
3 Official undertakings
4 Powers and duties of the board
5 Superintendent of schools; duties
6 Clerk; duties
7 Superintendent of repairs; duties
8 Regulation of salaries
9 School libraries
10 Appointment and qualifications of principals and teachers
11 Textbooks
12 State school money
13 School buildings
14 Construction of act
15 Saving clause
16 Construction of provisions
17 Laws repealed

Section 1 **Department of public instruction established.** A department of public instruction in and for the city of Syracuse is hereby established. There shall be a board of education, composed of seven members, to be called commissioners of education, who shall be elected by the electors of the city at large. Said board shall be the head of the department of public instruction, and the representative of the school system of the city in its entirety. The terms of said commissioners shall be four years, to commence January 1st following their election. The first commissioners of education shall be those holding office at the time this act takes effect, and who shall continue to hold their offices until the expiration of the terms for which they were severally elected. Their successors shall be elected at the biennial city election next preceding the expiration of their respective terms of office, in the same manner as other city officers. Said commissioners shall serve without compensation.

§ 2 **Officers and subordinates.** The board shall appoint one of its members president, who shall exercise all of the powers usually incident to such office. It shall appoint, to hold office for a term of four years, unless sooner removed, a clerk who shall perform the duties hereinafter specified and shall receive such compensation for his services as shall be determined by the board of estimate and apportionment. It shall also appoint to hold office for a term of four years, unless sooner removed, a suitable person, to be superintendent of schools, who shall exercise the powers and discharge the duties hereinafter defined, and shall receive such compensation for his service as the board of estimate and apportion-

ment may determine. It may also appoint a superintendent of repairs, and such other subordinates, including principals, teachers, attendance or truant officers, and janitors or custodians of schools as the public school system of the city may require, and, subject to the approval of the board of estimate and apportionment, shall fix and determine the salaries or compensation of all such officers, and subordinates, within the appropriation made therefor. The present officers, appointees and employees of the board of education shall continue to hold their respective offices during the terms for which they have been respectively appointed. All appropriations of public moneys made for the payment of salaries and compensation of officers and subordinates of the department of public instruction shall be paid monthly, after certification by the president of the board of education, by the city treasurer upon the warrant of the city comptroller, in the same manner as the salaries of the other city officers. The commissioners and subordinates shall be deemed to be city officers of the city, and shall be subject to all the provisions of law applicable to such city officers.

§ 3 **Official undertakings.** The superintendent of schools and the clerk shall each, before entering upon the discharge of the duties of his office, execute and file with the city clerk an official undertaking conditioned upon the faithful discharge of the duties of his office, in such sum as shall be prescribed by the common council; such undertakings to be approved as to form and validity by the corporation counsel, and as to the sufficiency of the sureties by the mayor.

§ 4 **Powers and duties of the board.** The board of education shall have the sole and exclusive government, management, care and control of the public school system of the city, subject only to the general statutes of the State relative to public schools and public school instruction not inconsistent with the provisions of this act. It shall have the sole and exclusive care, custody, control, management and safekeeping of all property owned or used for school purposes. It shall have full power and authority to approve all plans for new school buildings; to make rules and regulations for the government of the schools; prescribe courses of study and textbooks; provide the schools with necessary apparatus, equipment, furniture and supplies; supply the requisite textbooks and stationery for the use of the pupils, when required by law; exchange old textbooks for new; change the grades of schools and classes therein, and establish new schools; license and fix standards for qualification as necessary requirements for service of all principals and teachers in the schools, which requirements may be higher, but not lower, than the minimum qualifications required by the general laws of the State; assign and transfer principals, teachers and pupils to schools and from one school to another, and provide for the graduation of all pupils from all grades of schools; allow teachers extra pay for extra work, and employ and fix the compensation of such extra teachers as may be required, within the appropriation made for teachers' wages; prescribe rules and regulations for the admission of nonresident pupils to the schools of the city and fix the tuition to be paid therefor; and shall have all the powers and discharge all the duties conferred or imposed by law upon commissioners of common schools and trustees of the several school districts of the State, so far as the same are applicable to

the schools of the city and are not inconsistent with the provisions of this act. In the execution of the powers and authority vested in it the board may establish such rules and regulations as it may deem necessary for the promotion of the welfare and best interests of the public schools and the public school system of the city. The board shall administer all moneys appropriated or available for educational purposes, provided that all purchases or expenditures made, or expenses or indebtedness incurred by said board, or in said department, shall be made, audited and paid in the same manner and subject to the same conditions and limitations as are provided by law for expenditures made by other city departments. The enumeration of specific powers herein shall not be deemed to exclude or limit the exercise of powers not so enumerated.

§ 5 **Superintendent of schools; duties.** It shall be the duty of the superintendent of schools, under the general supervision and direction of the board of education, to visit the several schools of the city at frequent intervals; to inquire into the character of the instruction, management and discipline; to advise and encourage the pupils and teachers; to enforce the rules and regulations of the board of education; to maintain and enforce proper discipline in the management and conduct of the schools, and in connection therewith may suspend any pupil alleged to be guilty of misconduct or insubordination, and may likewise suspend any teacher, principal or employee, but shall immediately report such discipline with his reasons therefor to the board of education; to report to the board of education any inefficiency or misconduct on the part of principals, teachers and employees; to supervise the enforcement of the compulsory education law and direct truant officers in the discharge of their duties; to have charge of the school libraries; and to perform such other duties as shall be prescribed by or delegated to him by the board of education.

§ 6 **Clerk; duties.** The clerk shall keep all records of the board and shall have charge, custody and control of the rooms, books, papers, documents and records of the department and shall perform such other duties as shall be required by the board of education. He is hereby authorized to administer oaths and take affidavits in all matters appertaining to the schools or school system of the city and for that purpose shall possess all the powers of a commissioner of deeds, but shall not be entitled to any of the fees or emoluments thereof.

§ 7 **Superintendent of repairs; duties.** The superintendent of repairs shall, under the direction of the board, have charge of keeping in repair the school buildings, school furniture and equipment, heating and other apparatus and appliances for carrying on school work; and for such purposes may, subject to the approval of the board, and within the appropriation made therefor, employ such assistants as may be necessary.

§ 8 **Regulation of salaries.** The salaries of all principals and teachers shall be regulated so far as practicable, according to merit, grade of class taught, length of service in teaching or by a combination of these considerations, in accordance with a uniform of¹ schedule.

¹ So in the original.

§ 9 **School libraries.** The board of education shall be the sole trustee of the several school libraries in said city. It shall provide for the safekeeping of the same and all provisions of law relative to district school libraries shall be applicable thereto. It shall be vested with the same discretion as to the disposition of all moneys appropriated by any laws of the State for the purpose of school libraries as is conferred by law upon the inhabitants of school districts.

§ 10 **Appointments and qualifications of principals and teachers.** All appointments to positions of teachers in the public schools of the city, except principals and vice principals of schools, heads of departments of high schools, and special teachers of drawing, music, physical culture, writing, sloyd, stenography and domestic science, shall be made from a merit list to be ascertained and established in accordance with such rules and regulations as the board of education shall prescribe. The applicants on said list shall be graded and classified according to a combination of qualifications which shall include scholarship, ability to teach, experience and ability in school and classroom discipline and management, and general merit and fitness. No person shall be appointed to the position of principal of a high school or of a grammar school, or teacher of a high school, who is not a graduate of a normal school, college or university recognized by the Regents of The University of the State of New York, and has not had at least two years' successful experience in teaching, and no person shall be appointed as teacher in a grammar school or kindergarten who is not a graduate of a normal school or who has not pursued a course in pedagogy in a State training school for at least one year. The provisions of this section as to qualifications or eligibility shall not apply to any principal or teacher now in the employ of the city.

§ 11 **Textbooks.** Textbooks shall be furnished free of expense to all pupils of the common schools of said city of all grades below that of high school. Such books shall be and remain the property of the city and the board of education shall provide for the care and preservation of the same. No textbook of which any officer or subordinate of the department is the author, or in the publication or sale of which any such officer or subordinate is in any way interested, shall be adopted for use in any of the schools of the city unless the same shall have been adopted and shall be in use in the public schools of at least five other cities of the State.

§ 12 **State school money.** Whenever the city clerk shall receive notice from the State Commissioner of Education of the amount of moneys apportioned to said city for the support and encouragement of common schools therein, he shall immediately lay the same before the city comptroller and treasurer, and the treasurer shall apply for and receive the moneys apportioned to the said city as soon as the same become payable and place the same in the city treasury, and the same shall be applicable for the reduction of general taxation.

§ 13 **School buildings.** The commissioner of public works shall have the power, when authorized so to do by the board of estimate and apportionment for, on behalf of and in the name of the city of Syracuse, to acquire by purchase or condemnation or to lease such real property as may be required for school purposes; to superintend the planning and construction of new school buildings; and

to dispose of such real property owned and used for school purposes as shall no longer be required therefor. No school building or addition to a school building shall hereafter be erected until the plans, specifications and detailed drawings for the same shall have been approved by the superintendent of public works and board of education and their respective approvals indorsed thereon. Such plans and specifications shall show in detail the ventilation, heating, lighting, plumbing and sanitary arrangements of such buildings. No plan or specifications for the erection of any school building or addition to a school building shall be approved unless the same shall provide at least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein, nor unless provision be made therein for assuring at least thirty feet of pure air every minute per pupil and the facilities for exhausting foul or vitiated air therefrom shall be positive and independent of atmospheric changes. All such school buildings shall have at least two separate and distinct stairways located as far remote from each other as practicable. All stairs, stairways and stair halls shall be constructed of absolutely fireproof material. All stairways and stair halls shall be inclosed on all sides with walls of solid masonry, self-supported and carried from the foundations. All doorways opening therein shall be protected by fire doors and all window openings, except from the outside, shall have fireproof or wired glass set in metallic frames. All halls, doors, stairways, seats, passageways and aisles, and all lighting and heating appliances and apparatus shall be so arranged as to facilitate egress in case of fire or accident, and to afford the requisite and proper accommodations for public protection in such cases. Existing school buildings shall, as far as practicable, be improved so as to comply with the foregoing requirements.

§ 14 **Construction of act.** This act is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. This act shall be construed not as an act in derogation of the powers of the State but as one intended to aid the State in the execution of its duties, and shall be liberally construed so as to carry into effect the objects and purposes hereof.

§ 15 **Saving clause.** The repeal of a law, or any part of it, specified in the annexed schedule, or otherwise, by the provisions of this act, shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this act takes effect, may be prosecuted and defended to final effect in the same manner as they might under any such law so repealed, unless it shall be otherwise specially provided herein.

§ 16 **Construction of provisions.** The provisions of this act, so far as they are substantially the same, or cover the same subject matter as those of any law

repealed hereby, shall be construed as a continuance of any such repealed law, modified or amended, according to the language employed herein, and not as new enactments. References in a law not repealed to the provisions of any law incorporated into this act or repealed, shall be construed as applying to the provisions so incorporated. The meaning and effect of the terms of language used herein shall be construed in accordance with the provisions of the statutory construction law.

§ 17 **Laws repealed.** The following acts and parts of acts are hereby repealed:

1 Of the laws enumerated in the schedule annexed, that portion thereof specified in the last column.

2 All acts or parts of acts, general or special, in so far as inconsistent with the provisions of this act.

But such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws purporting to specifically amend any of the laws hereby specifically repealed.

§ 18 This act shall take effect immediately.

SCHEDULE		
<i>Laws of</i>	<i>Chapter</i>	<i>Sections</i>
1885	26.....	174-183
1887	368.....	16
1889	18.....	All
1892	626.....	5
1893	524.....	All
1893	531.....	20-24
1895	950.....	23-27
1897	752.....	All
1898	48.....	All

Chapter 750, Laws of 1897

An act to amend chapter 26 of the Laws of 1885, entitled "An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city," establishing a fund for pensioning retired school teachers, and regulating the collection and management thereof

Section 1 Title 11 of chapter 26 of the Laws of 1885 is hereby amended by adding thereto a new section to read as follows:

§ 183a. Sub. 1 The board of education and superintendent of schools of the city of Syracuse shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by this act. The said board of trustees is empowered to make payment, from said

fund, of annuities granted in pursuance of this act; to take all necessary and proper action in the premises; and to make such rules and regulations for the administration and investment of said fund as it may deem best, except that neither the whole nor any part of said fund shall be invested in any manner otherwise than as the savings banks of the State are by law permitted to invest their funds.

Sub. 2 The public school teachers retirement fund created by this act, shall consist of the following moneys with interest or income therefrom, to wit:

a All money, pay, compensation or salary forfeited by or deducted from the salary of any superintendent, supervisor, principal or teacher employed in the public schools of Syracuse, for any absence from duty for any cause; but when the duties of such absent person are performed by a supply teacher, the amount of salary so deducted shall first be applied toward the payment of such supply teacher.

b All donations, legacies and gifts which shall be made to said fund.

c An amount not to exceed one per centum per annum of the respective salaries paid to the superintendent of schools, supervisors, principals and teachers regularly employed in the public schools of Syracuse.

d All moneys which may be obtained from other sources, or by other means duly and legally devised for the increase of said fund, by said board of trustees, or with their consent.

Sub. 3 The board of education, in making the payrolls for the superintendent, supervisors, principals and teachers hereinbefore mentioned, shall semiannually deduct from the salary of each of said persons, a sum not to exceed one per centum per annum of his or her annual salary and shall certify the amount of such deductions and names of the persons from whose salaries such deductions have been made; and such certificate shall accompany the payroll and a warrant for the amount of the deductions so certified shall be drawn payable to the city treasurer, who shall retain the same subject to the disposal of the said board of trustees. A similar certificate shall be made and warrant drawn each month in case of deductions from salaries on account of absence from duty.

Sub. 4 The city treasurer shall be the custodian of said fund and shall execute a bond to the city, with good and sufficient sureties, to be approved by said board of trustees, conditioned on the faithful performance of his duties as such custodian. Said bond shall be filed in the office of the city clerk, and in case of a breach of the same or any of the conditions thereof, suit may be brought on said bond in the name of the city for the use of said board or any person or persons injured by such breach.

Sub. 5 (*a*) The board of education shall have power, on recommendation of the superintendent of schools, to retire from service any supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of twenty years if a female, and twenty-five years if a male; and any person so retired shall become an annuitant under this act, provided that not less than fifteen years of such service shall have been rendered in the public schools of Syracuse.

(b) Any superintendent, principal, supervisor or teacher who shall have served in such capacity or capacities for a period of thirty years if a female, or thirty-five years if a male, may voluntarily retire from service and become an annuitant under this act, provided that not less than fifteen years of such service, or five years as provided in subdivision 9 of this act, shall have been performed in the public schools within the present limits of Syracuse.

Sub. 6 No annuity paid in pursuance of this act shall exceed one-half the annual salary of the annuitant receiving it, at the time of retirement from service; neither shall any annuity exceed the sum of eight hundred dollars, and all annuities must be at the same rate per centum of the salary of the several annuitants at the time of retirement, except in cases where the annuity at that rate would exceed eight hundred dollars.

Sub. 7 No person shall become an annuitant who has not contributed to the teachers retirement fund, in pursuance of subdivision 3 of this act, exclusive of deductions from salary for absence, an amount equal to at least twenty per centum of his or her annual salary at the time of retirement; but any such person, otherwise qualified, may become an annuitant by making a cash payment to the retirement fund before receiving any annuity, of such an amount as his previous contributions under said subdivision 3 may have fallen short of the required twenty per centum.

Sub. 8 No annuity shall be paid from the teachers retirement fund before July 1, 1901; but any person duly qualified who shall retire or be retired from service before that time, shall not be deemed to have forfeited the right to become an annuitant under the provisions of this act.

Sub. 9 No person shall be deemed to have forfeited the right to become an annuitant by virtue of having resigned his or her position in the public schools of Syracuse after five years of service therein, provided that such person shall continue in similar work elsewhere, and shall contribute annually to the retirement fund an amount equal to one per centum of the annual salary of such person at the time of such resignation.

Sub. 10 If at any time a superintendent, principal, supervisor or teacher, who shall be willing to continue service in the schools, shall not be reemployed, or shall be discharged, before the time when he or she would, under the provisions of this act, be entitled to an annuity, then such person shall be paid back all the money which may have been deducted from his or her salary in pursuance of this act, otherwise than on account of absence.

Sub. 11 The board of education shall include in its annual report a full account of the condition of the teachers retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year.

TONAWANDA

Chapter 357, Laws of 1905

An act to revise the several acts relative to the city of Tonawanda

TITLE XXII

CITY SCHOOLS

- Section 1 Boundaries
2 Board of education; how constituted
3 Organization
4 Powers
5 Duties
6 Certificate of expenses
7 Common council, to include amount stated in certificate in tax levy
8 School moneys to be kept separate
9 Purchase of site and buildings
10 Report of expenditures
11 State apportionment payable to treasurer
12 Ordinance for school property
13 Sinking fund

Section 1 **Boundaries.** All territory included within the boundaries of the city of Tonawanda shall constitute a separate school district within this State, and shall be designated as the "union school district of the city of Tonawanda." It may bear such other additional designation as the Superintendent of Public Instruction of this State may by law prescribe. Such district shall be entitled to all rights, powers, privileges, public moneys and other benefits conferred by law or other State authority upon school districts, and shall be subject to all the rules, regulations, powers of inspection, and superintendence prescribed by law applicable to school districts in cities except as otherwise provided by this act.

§ 2 **Board of education; how constituted.** The affairs of said union school district of the city of Tonawanda shall be managed by a board of six members, to be organized in the manner herein provided, which board shall be known and designated as the "board of education of the city of Tonawanda." Said board and its successors shall possess the powers conferred, and discharge all the duties imposed by this act or by any general law of this State relating to school districts in cities, or relating to the boards of education of such districts and not inconsistent with the provisions of this act.

§ 3 **Organization.** On the Monday following the appointment of the members of the board of education to fill vacancies occurring in said board by expiration of term, the board of education shall convene at eight o'clock in the afternoon, at its usual place of meeting. The persons so appointed shall thereupon take the oath of office, and the board of education of the city of Tonawanda as constituted for the preceding year shall be dissolved, and the board of education

composed of the persons so appointed and those whose term of office shall not have expired, shall then be organized by the election of a president from among their number, and of some suitable person not of their number but who shall be a resident of said city as the clerk of said board. A majority of the board of education shall constitute a quorum for the transaction of business, and it shall keep a record of its proceedings.

§ 4 **Powers.** The board of education of the city of Tonawanda shall have the power, subject to the provisions of this act, to purchase, take, lease, hold or improve any real or personal estate in trust for said school district of said city in the support and maintenance of schools, or for any of the purposes of education in said city. It may also take by purchase, gift, grant, bequest or devise and hold any real or personal estate in trust for any of the purposes of education or art or for the support or maintenance of public libraries in said city upon such terms as may be prescribed by the doner¹ or doners¹ and accepted by said board; and it may execute any trust for any of the purposes aforesaid and provide for the proper execution thereof. The title of all schoolhouses, sites, lots, furniture, books, apparatus and other school property belonging to or in possession of the school district of the city of Tonawanda shall so continue for the purposes of education, in said city, subject to any existing liability.

§ 5 **Duties.** Subject to the provisions of this act, said board shall have power, and it shall be their duty,

1 To establish and organize in said city such and so many free schools, including night and vacation schools, as said board shall deem necessary and proper, and to change or discontinue the same in their discretion.

2 To purchase, as herein prescribed, hire, sell, or dispose of schoolhouses, lots, sites and school furniture as they may deem advisable.

3 To alter, improve and repair schoolhouses and appurtenances, as they may deem advisable.

4 To purchase, exchange, improve and repair school apparatus, books, supplies and appendages, and to defray the necessary expense attending the same.

5 To have the custody and safekeeping of the school buildings, lots, outhouses, books, furniture and appendages, and to see that the ordinance and by-laws of said city in relation thereto are enforced, and any violation thereof punished.

6 To contract with and employ janitors and employees.

7 To contract with and employ a superintendent of instruction for said city and all necessary teachers and to remove said superintendent, teachers and other appointees under such rules and regulations as may be established by law or by the Department of Public Instruction of said State.

8 To expend all moneys raised by virtue of this act, for purchasing sites, erecting or enlarging schoolhouses, or for other purposes, in such manner as they may deem best, but only for the purposes for which the same was so raised except as hereinafter provided.

¹ So in the original.

9 To license, upon the recommendation of the superintendent of instruction of said city, all teachers now employed in the schools of said city, in the same manner and with like effect in said city as school commissioners of counties.

10 To take and appropriate lands and other real property within said city for school purposes, upon making compensation therefor, in the same manner and under the same proceedings as prescribed in this act and as conferred upon the common council to take and appropriate lands for opening streets and highways.

11 To have, to the exclusion of all boards and officers except The University of the State of New York, the Department of Public Instruction of this State, and as herein otherwise provided, the entire supervision and management of the schools in said city, and from time to time, to adopt, alter, modify or repeal as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one schoolroom or house to another, for their advancement from class to class as their degree of scholarship shall warrant and generally for the promotion of the good order and prosperity of said schools.

12 To allow the children of persons nonresidents within the city to attend any of the schools therein under the control of said board upon such terms as said board by resolution may prescribe.

13 To maintain a free public library, which shall be under the control of a board of library trustees, appointed as is, or shall be prescribed by law.

14 To exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts.

15 Except as otherwise provided by this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings.

16 Except as otherwise provided in this act, to exercise all the powers conferred and discharge all the duties imposed by the general laws of this State applicable to boards of education in cities. The records of the proceedings of said boards, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts therein stated.

§ 6 **Certificate of expenses.** On or before the 1st day of February of each year the board of education shall prepare a certificate of such sums of moneys as it may deem necessary for the school year commencing August 1st thereafter for each of the following purposes, namely:

1 For wages of superintendent and teachers after applying all the public school and other moneys applicable thereto.

2 For the repair, enlargement or improvement of schoolhouses, outhouses and grounds with their appendages and appurtenances.

3 For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

4 For the rent of schoolhouses and rooms for school purposes.

5 For the purchase, maintenance and care of the free public library, library buildings and grounds.

6 For the purchase of fuel and lights and to pay the contingent expenses of the district, including the salaries of the janitors and the incidental expenses, and including the interest on the bonded school debt.

§ 7 **Common council to include amount stated in certificate in tax levy.** Such certificate signed by the president and clerk of said board shall, within the time hereinabove specified be delivered to the city clerk. The city clerk shall deliver such certificate to the common council at its next regular meeting. The common council shall not have authority to revise or review such certificate but shall cause to be included in the annual tax levy for that year, the amount so certified in such certificate, and such amount shall be collected by the city treasurer and credited to the various funds as designated in said certificate.

§ 8 **School moneys to be kept separate.** All public moneys or other funds belonging or appropriated to the use of said district shall be paid to the city treasurer, who shall keep the same separate from the general funds of the city, and shall credit to each of said school funds the moneys or property belonging thereto. Upon request from said board the city treasurer shall certify from time to time the various balances remaining to the credit of any or all of the school and library funds, and the balances remaining unpaid to said various funds from the amount of the school certificate for that year.

§ 9 **Purchase of site and buildings.** When the board of education shall determine by resolution that it is necessary to purchase any site or addition to any site, or erect any school building, or enlarge any school building already erected, it shall in such resolution state the ward within which the site is to be purchased or building to be erected or enlarged, and the particular sum required for each separately. If said total sum exceeds three thousand dollars they shall then call a tax election in said city in the manner provided in this act for the calling of special tax elections by the common council. The board of education shall appoint three freeholders of the city, inspectors of such elections, who may fill vacancies occurring in their number. The inspectors shall thereupon proceed to hold such election, pursuant to such resolution, and in the same manner as in holding other tax elections under this act, and the qualifications of the electors thereat shall be determined by the general school law of the State applicable to cities. The board of education shall designate some convenient and central place at which to hold such special tax election and such tax election shall be held by the same inspectors during the same hours and in the same manner as other tax elections under this act. The vote shall be taken by ballot which shall be indorsed "school tax," and shall be deposited in a ballot box provided therefor and marked "school tax." The board of education shall at every such tax election provide sufficient printed ballots for the use of the electors thereat, upon which shall be printed the various items or objects to be voted for thereat, with the words "for" and "against" at the beginning of each item. Each elector shall indicate his vote as to each of said items by placing a cross before the word "for" if he favors the proposition, and before the word "against," if he opposes the proposition. The inspectors shall canvass said votes without intermission or adjournment as at other elections, and make a statement thereof in respect to each item voted upon, and

immediately file the same with the clerk of the board of education. Upon the day following such tax election the board of education shall convene at its usual place of meeting, at eight o'clock in the afternoon, and the said statement shall be produced, and the board shall forthwith declare and make a certificate in writing of the result. In case a majority of the votes cast be in favor of any said taxes, the board of education shall have authority to borrow upon the faith and credit of said city the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The board of education shall authorize the issue of bonds or other evidences of indebtedness, in such form and payable at such times as it may prescribe, for the sum or sums so authorized at a rate of interest not exceeding four per centum per annum. Said bonds or any part thereof may be sold by the board of education to the highest bidder after advertisement, but at not less than the par value thereof and accrued interest. The board of education, after completing the work or other objects for which the said moneys may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this article.

§ 10 **Report of expenditures.** It shall be the duty of the board of education, on or before the 1st day of September in each year, to make and file with the common council a detailed report of the manner in which it shall have expended the money provided for and appropriated for school purposes from any source during the last school year of said board, and such report shall be published by the common council as a part of the proceedings of the meeting at which it is submitted. The board of education shall also make reports to The University of the State of New York and the Department of Public Instruction of the State, in such manner and at such times as they may direct.

§ 11 **State apportionment payable to treasurer.** The county treasurer of Erie county shall pay over to the city treasurer of the city of Tonawanda, and he shall receive for the use of the board of education of said city such proportion of the school, library and other money apportioned to the said city of Tonawanda by the Superintendent of Public Instruction for teachers' wages and libraries, and other purposes as shall by law be apportioned to said board of education or district.

§ 12 **Ordinance for school property.** The common council of the city of Tonawanda shall have the power and it shall be its duty to pass such ordinances and by-laws as the board of education of said city shall report as necessary for the protection, safekeeping, care and preservation of the school buildings, and other property of said district and to impose such penalties for the violation of the same as it shall deem proper.

§ 13 **Sinking fund.** The board of education may also include in the certificate specified in section 6 of this title, a sum, not exceeding one thousand dollars for the creation of a sinking fund, with which to pay the principal of the bonded school debt, which sinking fund shall be managed by said board of education. No investment shall be made in behalf of said sinking fund, except in the bonds of the United States, or the State of New York, or of any city of the State.

TITLE 2

§ 7 **Appointive officers; terms and compensations.** There shall be appointed by the mayor under this act, at the times and for the terms of office herein stated, the following officers, who shall receive for their services as such, the compensation and salary herein stated and no other namely: . . .

6 Six members of the board of education, two of whom shall be appointed during the month of January in the year 1906, and two during the month of January every year thereafter, and each of whom shall hold office for a term of three years from and including the 1st day of January of the year in which he is appointed. Not more than three members shall be of the same political party. They shall serve without compensation.

Section 9 provides that the mayor may remove any officer which he appoints for a term fixed by the charter and it also provides that the mayor may fill vacancies as they occur. Titles 3 and 4 relate generally to the officers of the city. Title 13 relates to tax elections, title 14 to the issuance of municipal bonds and title 15 to letting contracts.

TROY

Chapter 182, Laws of 1898

An act for the government of cities of the second class

ARTICLE 7

DEPARTMENT OF PUBLIC INSTRUCTION

(This article applies only to the cities of Albany and Troy. See Albany, page. 9.)

Chapter 305, Laws of 1906

An act to establish a retirement fund for pensioning retired teachers, supervisors, superintendents and principals of the public schools in the city of Troy, including union free school district number 1 of the town of Lansingburg, and to regulate the collection, management and disbursement thereof

Section 1 The president of the board of education of the city of Troy, the president of the board of education of union free school district number 1 of the town of Lansingburg in the city of Troy, and seven teachers of the public schools of the city of Troy including the schools in union free school district number 1 of the town of Lansingburg, of which teachers two shall be school principals, shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by this act. In the month following the passage of this act and in the same month in each year thereafter, a meeting of all the teachers, supervisors, superintendents and principals of the public schools of the city of Troy and union free school district number 1 of the town of Lansingburg, shall be called by the superintendent of schools of the city of Troy, at which time and place two school principals and five teachers, then in active service, shall be chosen by the assembled teachers, supervisors, superintendents and principals, to serve for a term of one year upon the board of trustees hereinbefore mentioned. The said board of trustees is empowered to make payment from said fund of the annuities granted in pursuance of this act; to take all necessary and proper action in the premises; and to make such by-laws, rules and regulations as may be necessary or proper; and to provide for the administration and investment of said fund as it may deem best, except that no part of said fund shall be invested in any manner except as approved by the mayor of the city of Troy or otherwise than as the savings banks of the State are by law permitted to invest their funds. All vacancies occurring otherwise than by expiration of term in the office of either or any of the seven members of said board of trustees chosen from the teachers shall be filled until the end of the official year by the appointment of the said board of trustees. In case any trustee chosen or appointed as aforesaid shall cease to be such teacher or principal such trusteeship shall at once become vacant.

§ 2 The public school teachers retirement fund created by this act shall consist of the following moneys with interest or income therefrom, to wit:

a Five per centum annually of the excise moneys to which the city of Troy may from May 1, 1906 to and including April 30, 1910, be entitled by virtue of the provisions of the liquor tax law of the State of New York, and thereafter three per centum annually of the excise moneys to which the city of Troy may be entitled by virtue of the provisions of said liquor tax law. Said sum shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

b One per centum of the respective salaries paid to the superintendents of schools, supervisors, principals and teachers regularly employed in the public schools of said city and union free school district number 1 of the town of Lansingburg; except that the amount deducted from any one salary shall not exceed twelve dollars in any one year.

c All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal or teacher employed in the public schools of said city and union free school district number 1 of the town of Lansingburg, for an absence from duty for any cause. Such forfeitures and deductions shall be paid into said pension fund and duly credited thereto by the proper officials of said city and said union free school district number 1 of the town of Lansingburg.

d All surplus funds appropriated by said city and union free school district number 1 of the town of Lansingburg, for the payment of salaries in the department of education in their respective jurisdictions and remaining on hand on or after December 31, 1906. Such surplus shall be paid into said pension fund and duly credited thereto by the proper officials of said city and said union free school district number 1 of the town of Lansingburg.

e All donations, legacies and gifts which shall be made to said fund, and all moneys which shall be obtained from other sources or by other means devised for the increase of said fund by said board of trustees or with their consent.

§ 3 The boards of education of the city of Troy and union free school district number 1 of the town of Lansingburg, in making payrolls of the superintendent, supervisors, principals and teachers hereinbefore mentioned shall deduct from each and every payroll said one per centum from each and every amount payable in the period covered by the said payroll, and shall certify the amount of said deductions and the names of the persons from whose salaries such deductions have been made; and such certificates shall accompany the payroll, and a warrant for the amount of the deductions so certified shall be drawn payable to the city comptroller, and shall be deposited by him with the city treasurer who shall retain the same, subject to the disposal of said board of trustees, as hereinafter provided.

§ 4 The comptroller of said city shall be the custodian of said fund and the city treasurer shall be the treasurer thereof; and all orders made payable from this fund shall be made upon the vote of said board of trustees. Said orders to be signed by its president and countersigned by the city comptroller and the city treasurer.

§ 5 The boards of education of the city of Troy and union free school district number 1 of the town of Lansingburg shall have power, within their respective jurisdictions, on the recommendation of said board of trustees, to retire from service to become an annuitant under this act, any superintendent, supervisor, principal or teacher of the public schools of said city or of said union free school district who shall have served in such capacity or capacities for an aggregate period of thirty years, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of said city of Troy, or any such superintendent, supervisor, principal or teacher who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of superintending, teaching or supervising for a period aggregating twenty years, not less than fifteen years of which shall have been in the public schools which are now or hereafter may be located within the boundaries of said city. Any superintendent, supervisor, principal or teacher in the public schools of said city or union free school district number 1 of the town of Lansingburg, who shall have served in such capacity or capacities for a period of thirty years, or who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of superintending, teaching or supervising for a period aggregating twenty years may, with the consent of such board of education, retire from service to become an annuitant under this act, provided that not less than fifteen years of such service shall have been performed in the public schools which are now or hereafter may be located within the boundaries of said city of Troy. Any person retired after twenty years of service but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement for thirty years of service as the total number of years of service of such person bears to thirty years.

§ 6 The said boards of education of the city of Troy and union free school district number 1 of the town of Lansingburg, shall have power within their respective jurisdictions, to retire from service to become an annuitant under this act any superintendent, supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of thirty-seven years, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of the city of Troy, and also provided that at the time of such retirement the retirement fund herein created shall be adequate to pay the full annuity to which such annuitant shall be entitled. Any such superintendent, supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of thirty-seven years may voluntarily retire from such service to become an annuitant under this act, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of the said city of Troy.

§ 7 Annuities paid in pursuance of this act shall be one-half of the amount of the annual salary of the annuitant at the time of retirement from service, except

as provided in section 5 of this act, and except that no annuity shall be more than six hundred dollars annually; but if the moneys at the disposal of the trustees of said fund be found at any time inadequate to fully carry out the provisions hereinabove mentioned, the trustees shall then distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

§ 8 No person who shall retire or be retired to become an annuitant under this act shall be entitled to such annuity unless and until such person shall have contributed to the teachers retirement fund in pursuance of subdivision *b* of section 2 of this act, or in cash or by accumulation of the annuity to which such person would otherwise be entitled, or by either or all of such methods, an amount equal to at least twenty per centum of his or her annual salary at the time of retirement. All annuities provided for by this act shall be payable in monthly instalments.

§ 9 No annuity shall be paid from the teachers retirement fund until September 1, 1906, but any person duly qualified who shall retire or be retired from service before that time, and after this act shall take effect, shall not be deemed to have forfeited the right to become an annuitant under the provisions of this act.

§ 10 If at any time a superintendent, supervisor, principal or teacher shall be dismissed for cause before the time when he or she would, under the provisions of this act, be entitled to an annuity, then said person shall be paid back, without interest, all the money which may have been deducted from his or her salary in pursuance of subdivision *b* of section 2 of this act.

§ 11 The said board of trustees shall annually render to the comptroller of the city of Troy a full account of the condition of the teachers retirement fund, its amount, the manner of its investment and all receipts and disbursements on account of said fund during the year, and said comptroller shall include said statement in his annual report.

UTICA

Chapter 137, Laws of 1842

An act in relation to common schools in the city of Utica

Section 1 At the next annual election for city officers to be held in the city of Utica, there shall be elected six commissioners of common schools for the said city, who shall be elected in the same manner as justices of the peace, supervisors and constables are elected in said city pursuant to the act incorporating said city.

§ 2 Within ten days after their election the persons so elected shall take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk of said city; and they or a majority of them shall thereupon meet and cause the whole number of commissioners so chosen to be divided into three classes, to be severally numbered first, second, and third. The term of office of the first class shall expire at the end of one year, of the second class at the end of two years, and of the third class at the end of three years; but each class shall continue in office until their successors are elected, and have taken the oath of office.

§ 3 At every annual election for officers of the city in said city there shall be elected by the electors of the city two commissioners of common schools to supply the places of those whose term of office is next to expire. They shall hold their office for three years and until there¹ successors are elected and have taken the oath of office, except as hereinafter provided. The term of office of all commissioners elected pursuant to the provisions of this act shall commence on the first day of January next succeeding their election, except as hereinafter provided. The terms of the two commissioners of common schools whose term would expire on the second Tuesday of March, 1893, under the law as heretofore existing are hereby extended to January 1, 1894. Their successors shall be elected at the annual election for officers of the city, to be held on the 7th day of November, 1893, and shall take office on the 1st day of January, 1894, and hold the same for the term of two years. The successors to the two commissioners of common schools whose terms would expire on the second Tuesday of March, 1894, under the law as heretofore existing shall be elected at the said election for officers of the city, to be held on the 7th day of November, 1893, and shall take office on the second Tuesday of March, 1894, and shall hold the same until the 1st day of January, 1897. The successors to the two commissioners of common schools whose terms would expire on the second Tuesday of March, 1895, under the laws as heretofore existing shall be elected at the election of officers of the city, to be held on the Tuesday next succeeding the first Monday in November, 1894, and shall take office on the said second Tuesday of March, 1895, and shall hold the same until the 1st day of January, 1898. (*As amended by L. 1893, ch. 10.*)

¹ So in the original.

§ 4 The common council of said city may make appointments of commissioners of common schools, to fill vacancies which may occur from any cause other than the expiration of the term of office of the persons elected. The commissioners so appointed, shall hold their office for the unexpired term of those to supply whose places they are appointed.

§ 5 Any commissioner of common schools in said city may be removed from office for official misconduct by the common council thereof, by a vote of two-thirds of the members thereof.

§ 6 The commissioners of common schools in said city shall constitute a board to be styled the "commissioners of common schools in the city of Utica," which shall be a corporate body in relation to all the powers and duties conferred upon them by virtue of this act; a majority of the board shall form a quorum. At their first meeting after the first day of January in each year, they shall elect one of their number chairman, and whenever the chairman shall be absent from a meeting of the board, they may appoint a chairman pro tempore; they shall also elect a clerk who shall hold office during the pleasure of the board. The said commissioners shall receive no compensation for their services. (*As amended by L. 1893, ch. 10.*)

§ 7 The clerk of said board shall keep a record of the proceedings thereof, which record, or a transcript therefrom, certified by the chairman and clerk, shall be received in all courts as prima facie evidence of the facts therein set forth; and such records and all the books, papers and accounts of the said board, shall at all times be subject to the inspection of the common council, and of any committee thereof.

§ 8 The common council of the said city shall have the power and it shall be their duty to raise from time to time, by tax upon the real and personal estate in said city which shall be liable to taxation for the ordinary city taxes, or for town or county charges, such sums as may be determined and certified by the said board of commissioners to be necessary and proper for any or all of the following purposes:

- 1 To purchase, lease or improve sites and schoolhouses.
- 2 To build, purchase, lease, enlarge, alter, improve and repair schoolhouses and their outhouses and appurtenances.
- 3 To purchase, exchange, improve, and repair school apparatus, books, furniture and appendages.
- 4 To procure fuel and defray the contingent expenses of the common schools which shall be in addition to the amount of school moneys now or hereafter appropriated or provided by law to be raised for common schools in said city, provided, nevertheless, that such tax shall be levied but once in each year and that the whole amount to be raised shall not in any one year exceed the sum of sixty thousand dollars. (*As amended by L. 1844, ch. 131; L. 1854, ch. 348; L. 1857, ch. 572; L. 1867, ch. 115; L. 1870, ch. 118; L. 1877, ch. 243; L. 1889, ch. 15; L. 1895, ch. 1032; L. 1898, ch. 430; L. 1903, ch. 71.*)

§ 9 The common council shall cause the amount of the tax at any time ordered

to be raised in pursuance of the last section, to be added to the amount which they are otherwise authorized by law to raise by tax in said city, and they shall cause the same with the collectors' fees thereon, to be assessed, levied and collected at the same time by the same warrant, and in the same manner with the taxes raised for city expenses, under and by virtue of the forty-fourth section of the act to incorporate said city.

§ 10 All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to or provided for said city, shall be paid to the treasurer of the said city, who together with the sureties upon his official bond, shall be accountable therefor in the same manner as for other moneys of the said city; the said treasurer shall also be liable to the same penalties for any official misconduct in relation to the said moneys, as for any similar misconduct in relation to the other moneys of the city.

§ 11 After the passage of this act the treasurer of the said city shall not pay out any moneys in his hands received by the said city, either as school moneys, or collected or received by virtue of any of the provisions of this act, excepting upon an order drawn upon him, and signed by the chairman and clerk of the said board of commissioners, and no such order shall be drawn except by virtue of a resolution of the board.

§ 12 The said board may cause a suit or suits to be prosecuted in the name of the city of Utica, upon the official bond of the treasurer, or of any collector of the said city, for any default, delinquency or official misconduct in relation to the collection, safekeeping or payment of any moneys in this act mentioned.

§ 13 The said board shall have power and it shall be their duty,

1 To establish and organize such and so many common schools in said city (including the common and free schools now existing therein) as they shall deem requisite and expedient, and to alter and discontinue the same.

2 To purchase or hire schoolhouses, and rooms and lots or sites for schoolhouses, and to fence and improve them as they deem proper.

3 Upon such lots or sites, and upon any sites now owned by said city, to build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances, as they may deem advisable.

4 To procure fuel and defray the contingent expenses of the common schools, and the expenses of the district library of said city, which shall be in addition to the amount of school moneys now or hereafter appropriated or provided by law to be raised for common schools in said city; provided, nevertheless, that such tax shall not be laid oftener than once in each year, and that the whole amount to be raised shall not in any one year exceed the sum of ten thousand dollars.

5 To have the custody and safekeeping of the schoolhouses, outhouses, apparatus, books, furniture and appendages, and to see that the ordinances of the common council in relation thereto be observed.

6 To contract with and employ all teachers in the common schools and at their pleasure to remove them.

7 To pay the wages of such teachers out of the school moneys which shall be appropriated and provided in the said city so far as the same shall be sufficient, and the residue thereof from the tuition fees they shall be authorized to collect or receive as herein provided. And in case the said school moneys and tuition fees shall be insufficient to pay such wages, then to pay the deficiency out of the moneys to be raised by the common council of said city in pursuance of the eighth section of this act. (*As amended by L. 1844, ch. 131.*)

8 To fix the rate of tuition fees in said schools at a sum not exceeding two dollars per term, which shall be a period of not less than eleven weeks, and to designate a person or persons to whom the same may be paid previous to issuing a warrant for the collection thereof; and to exempt from the payment of the whole, or any part of the tuition fees, such persons as they may deem entitled to such exemption, for indigence or any other sufficient cause, and cause a list of the persons so exempted, with the extent of their exemption, to be kept by the clerk of the board. (*As amended by L. 1844, ch. 131.*)

9 To defray the necessary contingent expenses of the board, including an annual salary to the clerk, which shall be fixed by the board; and which shall not exceed five hundred dollars, provided that the accounts of said necessary expenses shall first be audited and allowed by the common council. (*As amended by L. 1867, ch. 115; L. 1870, ch. 118.*)

10 After the end of each school term to make out a rate bill containing the name of each person liable to pay tuition fees who shall not have paid them (prior to the making out of such rate bill) to the person or persons designated by the board for that purpose, and the amount for which such person is liable, adding thereto a sum not exceeding five cents on each dollar of the sum due, for collector's fees, and to annex to such rate bill a warrant for the collection thereof.

11 To deliver such rate bill, with the warrant annexed, to one of the collectors of taxes of said city, who shall execute the same in like manner and with like effect, with the other warrants for the collection of taxes placed in his hands. Or in their discretion, to deliver the same to a collector to be appointed by said board of commissioners, who shall, if required by said board, execute to said commissioners in their corporate capacity, a bond, with one or more sureties, to be approved by said commissioners, or a majority of them, which bond, as to its penalty and conditions, shall be the same as is by law required to be executed by the collectors of school districts; and the said board of commissioners shall have the same power and authority in regard to said bond and the collection thereof, as the trustees of school districts have by law in regard to the bonds given by collectors of school districts; and the said collector shall have the same power in the execution of said warrant, that the collectors of taxes of said city have by virtue of this act. (*As amended by L. 1844, ch. 131.*)

12 To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer

from one school to another, and generally for the promotion of their good order, prosperity and public utility.

13 Whenever in the opinion of the board it may be advisable to sell any of the schoolhouses, lots or sites or any of the school property now or hereafter belonging to the city, to report the same to the common council.

14 To prepare and report to the common council such ordinances and regulations as may be necessary or proper for the protection, safekeeping, care and preservation of schoolhouses, lots, sites and appurtenances, and all the property belonging to the city connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually to determine and certify to the said common council the sums in their opinion necessary or proper to be raised under the eighth section of this act, specifying the sums required for each of the several purposes therein mentioned.

15 To unite with the commissioners of schools of any adjoining town, and form, regulate and alter any district out of any portion of the said city and such town, whenever they shall deem it necessary and proper to do so, in which case, so far as such district or districts are concerned, the said board shall, during the existence of such districts, have the same powers and duties which the commissioners of schools in towns have.

16 Between the first day of July and the first day of August in each year, to make and transmit to the county clerk a report in writing, bearing date the first day of July in the year of its transmission, and stating,

1 The whole number of districts separately set off within the said city in pursuance of subdivision 15 of this section;

2 An account and description of all the common schools kept in the said city during the preceding year and the time they have severally been taught;

3 The number of children taught in the said schools respectively, and the number of children over the age of five and under sixteen years residing in the city on the first day of January of that year;

4 The whole amount of school moneys received by the treasurer of the said city during the preceding year, distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source;

5 The manner in which such moneys have been expended, and whether any and what part remains unexpended, and for what cause;

6 The amount of money received for tuition fees during the year, and the amount paid for teachers wages, in addition to the public moneys, with such other information as the superintendent of common schools may from time to time require.

§ 14 All persons collecting or receiving tuition fees pursuant to the designation, or the warrant of the said board, shall be liable for all moneys thus collected or received by them in the same manner as collectors are for moneys received by them for taxes, and any collector of the said city, and his sureties, shall be liable upon his official bond, for any default, delinquency, neglect or misconduct in the duties with which he may be charged under or by virtue of this act, in

the same manner and with the like effect as for any other official default, delinquency, neglect or misconduct; and such collector shall also be liable to the same penalties for any such official misconduct as for any similar misconduct in relation to any other duties of his office.

§ 15 The warrant annexed to any rate bill, pursuant to the provisions of this act, shall be under the hands of the commissioners, or a majority of them, and shall command the collector to collect from every person in such rate bill named, the sum therein set opposite his name; and, in case any person so named shall not pay such sum on demand, to levy the same, together with the fees of said collector, by distress and sale of goods and chattels of the person who ought to pay the same, or of any goods and chattels in his possession, wheresoever the same may be found in the city of Utica, and to make return of such warrant to the treasurer of said city, within thirty days after the delivery thereof. (*As amended by L. 1844, ch. 131.*)

§ 16 Such warrants shall have the like force and effect as warrants issued by the boards of supervisors to the collectors of towns, and the collectors of the said city are authorized to collect the amount due from any person or persons in the said city, in the same manner and with the same power that collectors of a school district have for the collection of tax or rate bills issued by the trustees of school districts.

§ 17 The board of commissioners shall possess the same powers which the trustees of school districts have for the collection of tuition fees, which shall not be collected by the warrant issued by them with rate bills, and subject to the same regulations; and they may in like manner as the trustees of school districts, correct and amend errors in making out any rate bill, and refund to any person any sum improperly collected in consequence of such error.

§ 18 It shall be the duty of the said board in all their expenditures and contracts to have reference to the amount of moneys which will be subject to their order during the then current year, for the particular expenditures in question.

§ 19 The said board of commissioners shall be the trustees of the district library in said city, and all the provisions of the act entitled "An act respecting the school district libraries," passed April 15, 1839, and all other laws which now are or may hereafter be passed relating to district school libraries, shall apply to the school commissioners in the same manner as if they were trustees of a school district comprehending the said city; they shall also be vested with the discretion as to the disposition of the moneys appropriated by the fourth section of chapter 237, of the Statutes of 1838, which is therein conferred upon the inhabitants of school districts. It shall be their duty to provide a library room and the necessary library furniture, and appoint a librarian, to make all purchases of books for the said library, and from time to time to exchange or cause to be repaired damaged books belonging thereto; they may also sell any books which they deem useless, or of improper character, and apply the proceeds to the purchase of other books for the said library.

§ 20 It shall be the duty of said board, at least fifteen days before the annual election for city officers in each year, to prepare and report to the common council true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year; in which account shall be stated under appropriate heads,

1 The moneys raised by the common council under the eighth section of this act;

2 The school moneys received by the treasurer of the city from the county treasurer and the collector of taxes for town and county charges in said city;

3 The moneys received for tuition fees;

4 All other moneys received by the treasurer subject to the order of the board, specifying the sources;

5 The manner in which such moneys shall have been expended, specifying the amount paid under each head of expenditure;

And the common council shall, ten days before the said election cause the same to be published with the statement required to be published by the thirty-third section of the act to incorporate the said city.

§ 21 The said board shall be subject to the rules and regulations from time to time made by the Superintendent of Common Schools so far as the same may be applicable to them, and not inconsistent with the provisions of this act.

§ 22 The common council of said city shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of commissioners may report as necessary and proper for the protection, safekeeping, care and preservation of the schoolhouses, lots, sites, and appurtenances, and all the necessary property belonging to or connected with the schools in said city; and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act to incorporate the said city; and all such penalties shall be collected in the same manner that the penalties for violation of the city ordinances are by law collected; and when collected shall be paid to the treasurer of the city, and be subject to the order of the board of commissioners, in the same manner as other moneys raised pursuant to the provisions of this act.

§ 23 Whenever the said board shall report to the common council that it is advisable to sell any of the schoolhouses, lots or sites, or any of the school property now or hereafter belonging to the city, it shall be the duty of the common council to sell the same without unreasonable delay and upon such terms as the said council may deem advisable. The proceeds of all such sales shall be paid to the treasurer of the city, and shall be subject to the order of the said board, to be expended by them in the purchase, leasing, repairs or improvements of other schoolhouses, lots, school furniture, apparatus or appurtenances.

§ 24 The title of the schoolhouses, sites, lots, furniture, books, apparatus and appurtenances, and all other school property hereinbefore in this act mentioned, shall be vested in the city of Utica; and the same while used for or appropriated for school purposes shall not be liable to be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation or assessment for any purpose

whatsoever; and the said city in its corporate capacity shall be liable to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest or devise for the use of common schools of the said city, whether the same shall be transferred in terms directly to said city by its proper style or by any other designation or to any other designation, or to any person or persons or body for the use of the said schools.

§ 25 All former acts and parts of acts in relation to common and free schools in the said city inconsistent with the provisions of this act are hereby repealed.

Chapter 184, Laws of 1849

An act to amend and consolidate the several acts relating to the city of Utica

Section 106 The board of commissioners of common schools may, from the moneys received by them for the school district library, defray the contingent expenses of the library and the salary of the librarian. For the purpose of the distribution of any moneys now or hereafter appropriated by the State for the support of common schools, in which the said city of Utica shall be entitled to a share, every one hundred children between the ages of four and twenty-one years in said city, as ascertained in the last preceding annual report of the commissioners of common schools therein or otherwise, according to law, shall be deemed to be a school district for the purpose aforesaid, and shall be calculated and stated accordingly in the report of said commissioners. (*As amended by L. 1856, ch. 164; L. 1857, ch. 572.*)

Chapter 18, Laws of 1862

An act to revise the charter of the city of Utica

Section 124 The act entitled "An act in relation to common schools in the city of Utica," passed April 7, 1842, and the several acts amending the same, shall continue in force, excepting where their provisions are herein expressly amended, any thing herein contained to the contrary notwithstanding.

Chapter 9, Laws of 1866

An act to provide for the erection of a new academy building in the city of Utica

This law authorizes the city to borrow \$25,000, to be paid in three equal annual instalments, by a tax to be levied and collected like other city taxes, the money to be paid on the order of the commissioners of common schools, and to be expended in erecting a building for the Utica Academy.

Chapter 269, Laws of 1858

An act respecting the school district library in the city of Utica

Section 1 The commissioners of common schools of the city of Utica (ex officio trustees of the school district library of said city), are hereby authorized to make such rules and regulations, from time to time, for the better preservation

and care of the books of the said district library, as they may deem expedient; and may therein designate and determine such valuable books as can not be circulated without material injury, to be books of reference, not to be taken from the library rooms without the special permission of the commissioners, or the librarian, under their instructions, and subject to such rules and conditions as they may impose; and they may also exercise, and authorize the librarian to exercise, discretionary power as to the delivery of books to minors and irresponsible persons; any exercise of such authority by the librarian, to be a subject of appeal to the board of commissioners. The said commissioners may impose fines for the violation or nonobservance of said rules and regulation, not exceeding the fines authorized to be imposed by the trustees of school district libraries, under the general regulations respecting the same; and the rules and regulations so made and adopted by them, shall be obligatory upon all persons and officers having charge of said library, or using or possessing any of the books thereof, and may be enforced in the same manner that the said general regulations concerning the books in school district libraries, framed by the superintendent under the act respecting said libraries, passed April 15, 1839, may be enforced. The said general regulations framed under the said act, shall be applicable to and remain in force in regard to the said library of the city of Utica, except when the same shall be inconsistent with the rules and regulations made by the said commissioners under and by virtue of this act.

Chapter 572, Laws of 1857

An act to amend certain acts in relation to common schools in the city of Utica

Section 4 All claims and accounts presented to the board of school commissioners shall be in writing. They shall be numbered and filed, and a brief entry of the name of the claimant, number, nature and amount of the claim, made in a book to be kept for that purpose, prepared with appropriate letters and columns, so that the entry shall serve as an alphabetical index to the claim.

The book shall be provided with columns, in which shall be entered after the claim, the date when audited, and the amount, if any, allowed thereon.

The school commissioners shall annually, at least ten days before the charter election, report to the common council an abstract of the claims and accounts presented, audited and allowed during the year, as shall appear by such record, classifying the same under appropriate heads.

Chapter 666, Laws of 1873

An act to amend certain acts in relation to common schools in the city of Utica

Besides amending several sections in the foregoing as shown above, in section 6, confers general authority upon the common council to borrow money in anticipation of taxes voted for the erection or enlargement of schoolhouses.

Chapter 66, Laws of 1850

An act in relation to common schools in the city of Utica

Section 1 The board of school commissioners of the city of Utica shall annually prepare an estimate of the amount of money necessary to be raised in said city, for the then ensuing year, for the payment of salaries of superintendent, supervisors and teachers and all other expenses of maintaining said common schools exclusive of the money now required, or which may hereafter be required by law to be appropriated and apportioned from the State school money for the use of common schools in said city, and present the same to the board of estimate and apportionment of the city, and the board of estimate and apportionment shall include such estimate in its annual estimate of revenues and expenses of the city for the fiscal year; but the sum to be raised by virtue of this section for salaries of superintendent, supervisors and teachers shall not in any year exceed in amount a sum equal to nineteen dollars for each pupil registered in the common schools of said city in the preceding fiscal year. Which sum so raised shall be called the teachers' fund. The amount which said board of school commissioners may determine and certify as necessary to be raised by taxation for all the other expenses of maintaining said common schools shall not exceed in any one year the sum of eight dollars for each pupil registered in said common schools in the preceding fiscal year. Which sum so raised shall be called the contingent fund. The common council of the city of Utica with the approval of the board of estimate and apportionment may raise by temporary loan in the year 1909 such sums as may be determined and certified to said board of estimate and apportionment by the board of school commissioners as necessary, in addition to the sums theretofore put into the estimate for the maintenance of said common schools to pay the expenses of maintaining said schools for said year, but provided that such sums when added to the sums put into the estimate shall not make either the contingent fund or the teachers' fund exceed the totals hereinbefore named. (*As amended by L. 1852, ch. 258; L. 1867, ch. 115; L. 1873, ch. 666; L. 1877, ch. 243; L. 1895, ch. 998; L. 1898, ch. 431; L. 1900, ch. 562; L. 1904, ch. 242; L. 1909, ch. 85.*)

§ 2 The said board of commissioners shall appoint a superintendent of common schools for the city, to hold his office during the pleasure of the board, and to perform such duties in the care and oversight of the schools in the city as it may charge him with. He shall be paid such compensation for his services as the board shall from time to time determine, which shall be audited and allowed as other town charges are in the said city. He shall have power to take affidavits and acknowledgments in all matters connected with the common schools of said city. (*As amended by L. 1873, ch. 666.*)

Chapter 272, Laws of 1853**An act in relation to the Utica Academy**

Section 1 After the passage of this act, the commissioners of common schools in the city of Utica, for the time being, shall be the trustees of the Utica Academy, and possess the powers and perform the duties which the present board of trustees thereof possess and are charged with.

§ 2 The said academy shall be one of the common schools of the said city of Utica, but shall continue subject to the visitation of the Regents of the University, and entitled to all the rights and privileges which it has hitherto possessed.

§ 3 A majority of the board of trustees shall constitute a quorum to transact business.

Chapter 115, Laws of 1867**An act in relation to the common schools of the city of Utica**

Section 3 It shall be the duty of the treasurer of the city of Utica, immediately upon the receipt by him of any money appropriated, raised or designed for the use of the common schools of said city, to deposit the same in the bank or banks in which he is required to deposit the moneys of the said city; and to cause the same to be immediately entered and continually kept in and by accounts separate and distinct from the general account and all other accounts of the city treasurer; and he shall cause all money which shall be raised (and be received by him) for the purpose of buying sites and building schoolhouses in said city, to be kept, in manner aforesaid, in and by a separate account, distinct from the other moneys designed for school purposes. And the said moneys for the use of the said schools herein mentioned shall not be used, paid out or transferred by said treasurer, or in any way whatever, except upon the order of the commissioners of common schools in said city, in the manner now provided by law.

Chapter 7, Laws of 1846**An act in relation to common schools in the city of Utica**

Section 1 When the board of commissioners of common schools of the city of Utica shall be of opinion that it is necessary to erect one or more new schoolhouses, or to enlarge, or to complete or to furnish, or to make extraordinary repairs upon any one or more schoolhouses, or to purchase land for school purposes, it shall be their duty to state such necessity, with the reasons therefor, in a special written report to be made to the common council of said city, which report shall be filed with the city clerk not later than two months prior to the general election in said city, together with an estimate of the probable expense of such erection, enlargement, furnishing, completion, extraordinary repairs or purchase, but this act shall not be construed as preventing said board from using for the aforesaid purposes any of the funds properly applicable thereto by law

in addition to the funds provided for by this act. (*As amended by L. 1873, ch. 666; L. 1898, ch. 498; L. 1900, ch. 563.*)

§ 2 At the general election held in said city next after the filing of said report, the election officers of said city shall submit the question or questions so reported by said board to the electors of said city in accordance with the provisions of the general election law for submitting questions to the electors of the State or of any district thereof, and if the said board shall have reported more than one of said questions, they shall be separately submitted to said electors. (*As amended by L. 1857, ch. 572; L. 1873, ch. 666; L. 1898, ch. 498.*)

§ 3 If the number of ballots in favor of any proposition so submitted exceed the number of ballots against the same, it shall be the duty of the common council in addition to the moneys which they are otherwise authorized by law to raise by tax in the said city, to raise in the same manner that moneys are now raised for the ordinary expenses thereof, either in the ensuing year or in one, two, or three successive years as they shall elect, such sum or sums of money as the board of school commissioners in their said report or reports shall have estimated to be probably necessary for the erection, enlargement, furnishing, completion, improvement or extraordinary repair of any schoolhouse or schoolhouses and for the purchase of land for school purposes, and for no other purpose whatever. Provided, however, that if the total amount of money voted at any such election for any one or more questions submitted as aforesaid shall equal or exceed the sum of twenty thousand dollars the common council of the said city shall for the purpose of raising the sum or sums so voted, forthwith, upon the official canvass and declaring of the result of said vote, borrow money and issue the corporate bonds of said city to an amount equal to the amount so voted. Said bonds and the interest thereon shall be made payable at such times and place and in such amount as may be ordered by the common council but none of them shall run for more than twenty years. They shall forthwith be signed by the mayor and clerk and shall bear interest at a rate not exceeding five per centum per annum. Said bonds shall not be sold for less than par, and out of the proceeds thereof the city treasurer shall set apart the sum voted as aforesaid, together with any premium received on the sale of said bonds. The money so set apart shall be kept by the city treasurer as a separate fund to be drawn upon and used by the board of commissioners of common schools of said city for the sole purpose of executing the work specified in the question so submitted and voted by the electors. Any sums remaining unexpended after the completion and execution of such work shall be transferred by said treasurer, and said board to the contingent fund of said board and thereafter be available for the general uses and purposes of said fund. The common council shall, in addition to the other moneys which they are otherwise authorized by law to raise by tax in said city in the annual city tax levy, and in the same manner that moneys are raised for ordinary city expenses, raise such sums as may be necessary to pay the amount of principal and interest falling due during the ensuing year

on the bonds provided for in this section. (*As amended by L. 1873, ch. 666; L. 1898, ch. 498; L. 1900, ch. 563.*)

§ 4 Such moneys when raised shall be paid to the treasurer of the city and be kept by him distinct from other moneys in his hands, subject to be drawn by the board of school commissioners for the expenses of erecting such proposed schoolhouse or schoolhouses, or for the enlargement of others, and for no other purpose whatever, except that should any sum remain after the erection or enlargement of a schoolhouse or schoolhouses, the same shall be transferred by the school commissioners to the "contingent fund," so called. (*As amended by L. 1873, ch. 666.*)

WATERTOWN

Chapter 760, Laws of 1897

An act to revise the charter of the city of Watertown

TITLE VI

THE BOARD OF EDUCATION

Section 84 The commissioners of education selected as herein provided shall constitute the board of education of the city.

§ 85 The board of education shall provide suitable accommodations and facilities for the proper instruction of the children of the city and shall have exclusive charge and control of the public schools of all grades in the city, subject to the supervision and direction vested in the State Superintendent of Public Instruction and The University of the State of New York.

§ 86 The board of education shall have all the powers and duties now conferred or imposed by law upon its predecessor, except as modified by or inconsistent with the provisions of this act and in particular, subject to the limitations of this act, shall have power and it shall be its duty:

1 To organize or establish such and so many schools in said city, including the common schools now existing therein, as it may deem requisite and expedient and to alter or discontinue the same.

2 To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses and to fix and improve them as the board may deem proper.

3 Upon such lots and upon any sites now owned by said city to build, enlarge, alter, improve and repair schoolhouses and appurtenances, as the board may deem advisable.

4 To purchase, exchange, improve and repair school apparatus, books, furniture and appurtenances.

5 To contract with, license and employ all teachers in such schools and at pleasure to remove them.

6 To pay the wages of such teachers out of the moneys appropriated and provided by law for the support of common schools of said city so far as the same shall be sufficient and the residue thereof from the money authorized to be raised for that purpose by this act by tax upon said city.

7 To provide fuel for the schools and to defray all necessary and contingent expenses incurred in the conduct of the schools.

8 To have in all respects the superintendence, supervision and management of the schools of the city, and from time to time adopt, alter, modify and repeal as may be deemed expedient, the rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one school to another and for their good order, prosperity and utility.

9 Whenever in the opinion of the board it may be advisable to sell any schoolhouses, lots or sites now or hereafter belonging to the city, to recommend such sale to the common council, and when authorized by the common council to sell the same.

10 To cause an enumeration of all the children between the ages of five and twenty-one years, residing in said city to be made between the first day of October and the first day of November in such alternate years as shall be required by the State Department of Public Instruction. (*As amended by L. 1903, ch. 399.*)

11 To prescribe the course of study in the respective schools of the city and to designate the textbooks to be used therein.

12 To provide for the examination and licensing of teachers to be employed in the schools of the city, subject to the laws of the State relating thereto and to the direction of the State Commissioner of Education.

13 To have charge and defray the expenses of the public library and to make all necessary and proper regulations concerning the same, subject to the supervision and direction vested in the State Superintendent of Public Instruction and The University of the State of New York, until such library and the title thereto shall be transferred to the trustees of "The Roswell P. Flower Memorial Library"; the board of education shall thereupon be released from all care, charge and expense of said library and its maintenance; the common council, upon the request of the board of education, is hereby authorized to transfer said library to the trustees of "The Roswell P. Flower Memorial Library." (*As amended by L. 1903, ch. 399.*)

§ 87 It shall be the duty of the board of education, on the 1st day of August in each year, to make and transmit to the State Commissioner of Education a report in writing, bearing date the 1st day of August in the year of its transmission and stating:

1 The number of schoolhouses in said city and an account and description of all common schools kept in said city during the preceding year, and the time they have severally been taught; the number of children taught in said schools, respectively, and the number of children over the age of five years and under the age of twenty-one years, residing in said city, on the 30th day of June in each year.

2 The full amount of school moneys received by the treasurer of said city during the preceding year, distinguishing the amount received by the city treasurer for the school fund from the city tax and all other sources.

3 The manner in which such moneys have been expended and whether any and what part remains unexpended and for what cause.

4 The amount of moneys received for tuition fees from foreign pupils during the year and the amount paid for teachers' wages in addition to the public moneys, with such other information relating to the common schools as may, from time to time, be required from the State Commissioner of Education.

§ 88 The board of education shall have power to enter into contracts with the school districts adjoining the city, to the end that the children of such adjoin-

ing districts may have the benefit of the schools of the city, upon such terms as may be agreed upon between the board of education of the city and the trustees of such adjoining districts; the tuition shall be paid therefor in such manner as the said board may direct, and paid immediately to the city treasurer for the use of said board.

§ 89 The board of education shall have power to choose a superintendent of public schools, whose term of office shall be at the pleasure of the board; such superintendent shall be paid such compensation as the board may determine, and under the direction of the board of education shall have charge of the educational work of all the schools of the city.

§ 90 The course of study as prescribed by the board of education now existing in the city, shall continue until modified or changed by such board.

§ 91 The board of education, as provided in section 177 of this act, shall submit in writing to the common council an estimate of the expenses of the said board for the ensuing year as follows:

1 For the purchase, lease or improvement of sites for schoolhouses.

2 For the building, purchase, lease, enlargement, alteration, improvement and repair of schoolhouses.

3 For the purchase, exchange, improvement and repair of school apparatus, mineral and geological specimens, furniture and appurtenances.

4 For fuel, insurance of school property, the expenses of the schools, the laboratories, cabinets, and necessary and contingent expenses of said board.

5 For the payment of teachers' wages and salary of the superintendent of public schools, aside from the application of moneys which may by law be appropriated and provided for that purpose.

6 For the miscellaneous expenses of the board not specifically mentioned in the foregoing items.

7 An estimate of the income of said board for the ensuing year from all sources outside of the city tax.

§ 92 In case the common council shall ratify the estimates of expenditures so submitted, the amount of such estimates shall constitute the sum to be raised for the board of education by taxation for the ensuing year; the common council may modify any item of the estimates for expenditures so submitted, and in such case it shall be the duty of the city clerk to forthwith certify to the president of the board of education such modification; the board of education shall have power by the vote of two-thirds of all members thereof, at any regular or special meeting called for that purpose, within one week from the date of the receipt of the certification of the city clerk by the president of the board of education, to declare by resolution that the estimated amounts as submitted to the common council, or a less sum, in each case are necessary for the conduct of the schools for the ensuing year which amounts so finally determined by the board of education shall not exceed the sum of twenty-one dollars for the financial year of 1914; twenty-two dollars for the year 1915; twenty-three dollars for the year 1916; twenty-four dollars for the year 1917, and twenty-five dollars for

the year 1918 and each year thereafter for each pupil enrolled in the public schools during the preceding year, of which amount, the difference between nineteen dollars and the maximum allowance for each pupil enrolled as given above may be raised in excess of the one dollar and seventy cents on every one hundred dollars of the assessed valuation of the taxable property of the city as provided in section 176 of the city charter; and it shall be the duty of the city clerk to forthwith certify such resolution to the president of the common council, in which case it shall be the duty of the common council to raise the amounts so determined for the purposes of the public schools, in the tax levy for the following year; in case the board of education shall fail to adopt such original estimates, or a less sum, as above provided, within one week from the certification by the city clerk, the amounts so modified by the common council shall constitute the amounts to be raised for school purposes for the ensuing year. The board of education shall not have power to expend any money in addition to the amount so authorized, and the amount of money received from the State, unless specifically authorized so to do in the manner hereinafter provided. In case the board of education shall at any time submit to the common council a special requisition for the purpose of purchasing a school site or sites or of enlarging, furnishing, repairing, building, or rebuilding a schoolhouse or houses or for any other necessary school improvement, and the common council shall within thirty days after receiving such requisition fail to grant the same out of the funds in its control, then the board of education by the vote of two-thirds of all its members may request the common council to submit to a vote of the taxpayers of the city a proposition to raise the sum desired by the said board for any or all of such purposes by special tax or bonding; and the common council shall forthwith submit such proposition to the taxpayers at a special election to be held pursuant to the provisions of section 205 of this act, and shall raise the amount voted by the taxpayers in accordance with and in the manner provided by said section. The submission of such proposition at the request of the board of education shall not be counted or considered so as to prevent the common council from submitting to the taxpayers at a special election any other proposition during the same year. (*As amended by L. 1903, ch. 399; L. 1905, ch. 486; L. 1914, ch. 4.*)

§ 93 The moneys raised by taxes and received from all other sources on account of the board of education shall be paid to the city treasurer, and by him placed in a separate fund to be known as the "school fund," and the moneys so set apart shall be used only for the purposes of the public schools.

§ 94 The school fund shall be under the control of the board of education, subject to the provisions of this act, and shall be paid out by the city treasurer only upon warrants drawn by the said board upon the city treasurer and signed by the president of the board of education, the city clerk and the superintendent of public schools, stating in every instance the name of the person or corporation to whom the warrant is payable, the amount thereof, what the payment is for

and from what fund it is to be made, with a reference to the resolution authorizing the payment, specifying the date thereof.

§ 95 The superintendent of public schools shall alone have authority, subject to the provisions of the laws of the State, to determine by examination the qualifications of teachers, and the board shall not employ any teacher who has not a certificate of qualification in writing, signed by the superintendent of public schools, and no teacher without such certificate shall have the right to claim any salary as a teacher from the board of education of the city.

§ 96 The common council shall, upon the recommendation of the board of education, sell any of the schoolhouses, sites, lots or any of the school property now or hereafter belonging to the said city upon such terms as the common council may deem reasonable. The proceeds of all such sales shall be paid to the city treasurer and passed to the credit of the school fund, and shall be expended by the board of education in the manner herein provided in the purchase, repair or improvement of schoolhouses, lots, sites or school furniture, apparatus or appurtenances.

§ 97 The board of education shall have no power to purchase lots or sites for schoolhouses or to build or enlarge schoolhouses, lots or sites now or hereafter owned by said city unless first authorized so to do by the common council.

§ 98 The trustees of the Jefferson county institute are hereby authorized to lease for a term of years, or to transfer by proper deeds of conveyance to the city of Watertown the property of the Jefferson county institute, real and personal, its appurtenances and hereditaments thereto belonging for school purposes; in case the trustees of said Jefferson county institute shall transfer the said property to the city of Watertown, it may, in the deed of conveyance, authorize the city to sell and convey the said property upon condition that the proceeds of such sale be expended in the erection or enlargement of other school building or buildings by and under the direction of the board of education. (*As amended by L. 1903, ch. 399.*)

§ 99 The high schools under the supervision of the board of education shall be entitled to participate in the literature, academic and other funds appropriated for classical scholarships and for the instruction of common school teachers upon proper application being made therefor, and shall be subject to the supervision of the Regents of The University of the State of New York; for such purposes the usual reports shall be made to the Regents of such University.

WATERVLIET

Chapter 184, Laws of 1911

An act to revise the charter of the city of Watervliet

ARTICLE XII¹

DEPARTMENT OF EDUCATION

- Section 165 Board of education
- 166 Appointment of school commissioners
 - 167 Chairman of the board of education
 - 168 Vacancies in office of school commissioners
 - 169 Eligibility to office of school commissioner
 - 170 Meetings of board of education
 - 171 Superintendent of schools and librarian
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 - 173 Payment of school moneys
 - 174 Powers of board of education
 - 175 Sale of schoolhouses
 - 176 Admission of pupils to schools
 - 177 Annual report to State Superintendent²
 - 178 Annual statement to be published
 - 179 Basis for distribution of State moneys
 - 180 Estimated expenses to be reported to mayor
 - 181 Increased estimate²
 - 182 Academy or high school
 - 183 Bids to be received for work and materials
 - 184 Members of board not to receive compensation or to be interested in contracts

§ 165 **Board of education.** The public schools within the city of Watervliet shall be under the management and control of a board of education to be styled "the board of education of the city of Watervliet."

§ 166 **Appointment of school commissioners.** The mayor, within ten days after the passage of this act, shall appoint five school commissioners. He shall appoint one of these commissioners for a term ending January 15th, in the year 1912, one for a term ending January 15th, in the year 1913, one for a term ending January 15th, in the year 1914, one for a term ending January 15th, in the year 1915, and one for a term ending January 15th, in the year 1916. The mayor shall thereafter annually, between the 1st and 15th day of January, appoint one school commissioner for a term of five years, who shall enter upon the term of his office on the 16th day of January, succeeding his appointment. The terms of office of the school commissioners now in office shall cease and terminate upon the appointment of the school commissioners provided for in this section.

¹ Articles II and V relate to officers and article VII relates to contracts and supplies.

² So in the original.

§ 167 **Chairman of the board.** The board of education shall hold a meeting annually on the second Tuesday in January for the purpose of organization and at such meeting shall elect one of their number chairman of such board. In case of the absence of the chairman from the city or his inability from any cause to attend a meeting of such board the other members present may appoint one of their number chairman pro tempore of such meeting.

§ 168 **Vacancies in office of school commissioner.** All vacancies in the office of school commissioner occasioned by death, resignation, removal or otherwise, shall be filled by appointment by the mayor.

§ 169 **Eligibility to office.** No officer of the city of Watervliet, except commissioner of deeds, shall be eligible to the office of school commissioner under this act, and the acceptance of any such office by any such commissioner shall vacate his office as such school commissioner. Any member of the board of education may, for neglect of duty, or for either immoral or official misconduct, be removed from office by the said board of education by a vote of two-thirds of said board; but before final action thereon, a written copy of the charges preferred against said member shall be served upon him, and he shall be allowed an opportunity to explain or refute them. Any member of said board may resign his office by giving one month's previous notice, in writing, to the board of education, who may, if they deem the reason sufficient, accept the same.

§ 170 **Meetings of the board.** The board of education shall meet for the transaction of business as often as once in each month, and may adjourn for any shorter time. Special meetings may be called by the mayor, or, in case of his absence or inability to act, by any member of the board, as often as necessary, by giving personal notice in writing to each member of the board, or by mailing a written or printed notice to his address, at least twenty-four hours before the time of such special meeting. A majority of the board shall constitute a quorum for the transaction of business.

§ 171 **Superintendent of schools and librarian.** The board of education shall appoint a superintendent of schools and a librarian, who shall hold office during the pleasure of the board, and whose compensation shall be fixed by the board. The superintendent shall be, ex officio, secretary of the board, and shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The librarian shall have full charge of the library or libraries of the district, and may appoint such assistants as may be necessary, from time to time, and such assistants may be removed at any time by the board of education. The record of the board of education, or a transcript thereof, certified by the secretary, shall be received in all courts as prima facie evidence of facts therein stated, and such record, the books, accounts, vouchers and papers of the said board shall at all times be subject to the inspection of the people of said city, and a transcript thereof may be taken.

§ 172 **Duty of city chamberlain as to custody and collection of school moneys.** All moneys raised by virtue of this act, or received from any other source for the use of the public schools in said city, shall be safely kept by the

chamberlain of the city of Watervliet to the credit of the school fund, until drawn as hereinafter provided for, and he shall, at the proper time in each year, draw upon the county treasurer, or other proper officer, for all moneys appropriated to said city or the schools in said city from the common school, literature or other funds of this State; and he is hereby authorized to receive the same.

§ 173 **Payment of school moneys.** The chamberlain shall pay out the moneys received by him only upon drafts drawn by the chairman and countersigned by the secretary of the board of education, which drafts shall not be drawn except in pursuance of a resolution or resolutions of said board, and shall be payable to the person or persons entitled to receive the money thereon. The chamberlain, when required to do so by the board of education, shall make to them a written statement of the moneys received and disbursed by him on their account, together with the amount in his hands at the time of such statement.

§ 174 **Powers of board of education.** The said board of education shall have power and it shall be their duty:

- 1 To organize, establish and maintain such and so many schools in said city, including the common schools now existing therein, as they shall deem requisite and expedient, and to alter and discontinue the same.

- 2 To purchase and hire schoolhouses and rooms, lots or sites for schoolhouses, and to fence and improve them.

- 3 Upon the lots and sites owned by said city, build, enlarge, alter, improve and repair schoolhouses, outhouses and appurtenances as they may deem expedient.

- 4 To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide for fuel for the schools and to pay the necessary insurance on buildings and school property.

- 5 To have the custody and safekeeping of the schoolhouses and all school property, and to see that the regulations of the board in relation thereto be observed.

- 6 To contract with and employ all teachers in said schools and for sufficient cause to remove them.

- 7 To pay the salaries of such teachers out of the money appropriated or provided by law for the support of public schools in said city, or by this act.

- 8 To defray the necessary contingent expenses of the board and to pay the salaries of the superintendent and librarian.

- 9 To license teachers employed in the schools of said city as provided in the Education Law, but no teacher heretofore duly licensed under the provisions of the Education Law, to teach within the territory of the city of Watervliet, shall be required to take out any other license to qualify said teacher in any of the schools of said city, until the expiration of the license now held by said teacher.

- 10 To have, to the exclusion of all boards and officers, except the Commissioner of Education of this State, and the Regents of the University, the entire supervision and management of the schools of said city, and to maintain therein an academy or high school; from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for the organization, government and instruction of said schools, and for the reception of pupils and their transfer from

one class to another or from one school to another, and generally for their good order, prosperity and utility.

11 Whenever, in the opinion of said board, it may be advisable to sell any of the schoolhouses, lots or sites, or any of the school property now, or hereafter, belonging to the city, to report the same to the common council.

§ 175 **Sale of schoolhouses, et cetera.** The common council of said city may, upon the recommendation of the board of education, sell any of the schoolhouses, lots or sites, or any other school property now or hereafter belonging to said city, upon such terms as the said board of education may deem reasonable. The proceeds of all such sales shall be paid to the chamberlain of the city, and shall be by the said board of education again expended in the construction, repairs or improvements of other schoolhouses, lots, sites or school furniture, apparatus or appurtenances.

§ 176 **Admission of pupils to schools.** The schools herein provided for shall be free to all pupils between the age of 5 and 21 years who are actual residents of said city. The board of education shall decide all questions of residence arising under this section. The said board may allow the children of nonresidents to attend the schools of said city and shall prescribe the rates of tuition of such nonresidents, payable always in advance; provided, that if such nonresident pupils, their parents or guardians, shall be liable to be taxed for the support of said schools, on account of owning property in said city, the amount of any such tax paid by a nonresident pupil, his parent or guardian, during the same year in which the charge for tuition was incurred, shall be deducted from such charge for tuition.

§ 177 **Annual report to Commissioner of Education.** Said board of education shall annually make and transmit to the Commissioner of Education a report in writing, which report shall be in such form and including such information as shall be required by the Commissioner of Education.

§ 178 **Annual statement to be published.** Said board of education shall, on or before November 15th in each year, prepare and publish in the official newspaper of the city of Watervliet, if such there be, a true and correct statement of the receipts and disbursements under the provisions of this title for the preceding year ending the 31st day of October, in which account shall be stated, under appropriate heads:

1 The amount of money raised by the city taxes for the support of public schools for the current year.

2 The school moneys received by the chamberlain of the city from the county treasurer.

3 All other moneys received by said chamberlain subject to the order of the board of education, specifying the sources from which they shall have been received.

4 The manner in which such sums of money shall have been expended, specifying the amount under each head of expenditures, and the person or persons to whom the money has been paid.

5 Such other information as they shall deem proper in regard to the condition of the schools under their care.

§ 179 **Basis for distribution of State moneys.** For the purpose of distribution of any money now or hereafter appropriated by the State, for the support of common schools, or for supervisors' quotas the said city shall be entitled to share in all of such moneys on the basis provided in the Education Law for such apportionment to cities.

§ 180 **Estimated expenses to be reported to mayor.** The board of education shall, on or before the 1st day of November in each year, declare and certify to to the mayor of the city the amount over and above the State moneys applicable toward the support of common schools in said city, by them deemed necessary for the purposes and uses of said board during the ensuing fiscal year of the city, other than for building or enlarging or purchasing of schoolhouses and the purchase of lots and sites therefor, not, however, exceeding the sum of fifty thousand dollars, which amount so recommended shall be inserted by the common council in the next annual tax levy, unless the same shall be reduced by the board of estimate and apportionment when such reduced amount shall be inserted in the annual tax levy unless the board of education shall by a vote of two-thirds of its members reject the same. If such reduced amount be so rejected then the original amount recommended by the board of education shall be inserted in the tax levy.

§ 181 Whenever the enrolment of pupils in the public schools of said city shall exceed the enrolment for the school year ending July 31, 1910, the board of education shall have authority to include in its estimated expenses to the mayor a sum in addition to the fifty thousand dollars provided for in the preceding section an amount equal to ¹twenty-six dollars per capita on the excess of such enrolment over the enrolment for the said year ending July 31, 1910.

§ 182 **Academy or high school.** The academy or high school established in connection with the school system of the city of Watervliet shall be recognized as one of the academies of the State, subject to the visitation of the Regents, and shall be entitled to participate in the distribution of the income of the literature fund and other funds in the same manner and upon the same conditions as other academies of the State, and the Regents of The University of the State of New York shall pay annually the same to said city as provided in the Education Law.

§ 183 **Bids to be received for work and materials.** Every contract for work and materials, or either of them, to be performed or furnished in the erection, alteration, improving or repairing of school buildings, fences or outhouses, when the value of such work and materials, or either of them, shall exceed, in any contract, the sum of fifty dollars, shall be awarded by the board of education to the lowest bidder therefor, who shall provide satisfactory security for the

¹ So in the original.

faithful performance of his duty under such contract, and the performance of all such work and the furnishing of all such materials, where the value of such work and materials, or either of them, shall exceed said sum of fifty dollars, shall be let by contract. Whenever it shall be necessary for said board of education to receive bids under the provisions of this section, it shall give reasonable public notice, stating the nature of the work and materials, or either of them required, and specifying the time and place at which such bids will be received by it and the security required, which shall accompany each bid, but said board of education shall reserve the right to reject any and all bids presented pursuant to this section, when public interest so requires.

§ 184 **Members of board not to receive compensation, or to be interested in contracts.** No member of said board of education shall receive any pecuniary compensation for his services as such member, nor shall any member or officer of the board participate in the profits arising from any transaction or contract entered into by the board or any member thereof as such, or be interested therein in any manner whatever. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

Chapter 140, Laws of 1908¹

An act to establish a retirement fund for pensioning retired teachers, supervisors, superintendents and principals of the public schools in the city of Watervliet, and to regulate the collection, management and disbursement thereof

Section 1 The president of the board of education of the city of Watervliet and seven teachers of the public schools of the city of Watervliet, of which teachers three shall be school principals, shall constitute a board of trustees, who shall have the general care and management of the public school teachers retirement fund created by this act. In the month following the passage of this act and in the same month in each year thereafter, a meeting of all the teachers, supervisors, superintendents and principals of the public schools of the city of Watervliet shall be called by the superintendent of schools of the city of Watervliet, at which time and place three school principals and four teachers, then in active service, shall be chosen by the assembled teachers, supervisors, superintendents and principals, to serve for a term of one year upon the board of trustees hereinbefore mentioned. The said board of trustees is empowered to make payment from said fund of the annuities granted in pursuance of this act; to take all necessary and proper action in the premises and to make such by-laws, rules and regulations as may be necessary or proper; and to provide for the administration and investment of said fund as it may deem best, except that no part of said fund shall be invested in any manner except as approved by the

¹ The teachers of this city have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 1109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this city it has been superseded by the general law.

mayor of the city of Watervliet, or otherwise, than as the savings banks of the state are by law permitted to invest their funds. All vacancies occurring otherwise than by the expiration of term in the office of either or any of the seven members of said board of trustees chosen from the teachers shall be filled until the end of the official year by the appointment of the said board of trustees. In case any trustee chosen or appointed as aforesaid shall cease to be such teacher or principal such trusteeship shall at once become vacant.

§ 2 The public school teachers retirement fund created by this act shall consist of the following moneys with interest or income therefrom, to wit:

a Five per centum annually of the excise moneys to which the city of Watervliet may from May 1, 1908, be entitled by virtue of the provisions of the liquor tax law of the State of New York. Said sum shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

b One per centum of the respective salaries paid to the superintendents of schools, supervisors, principals and teachers regularly employed in the public schools of said city; except that the amount deducted from any one salary shall not exceed twelve dollars in any one year.

c All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal or teachers employed in the public schools of said city, for an absence from duty for any cause. Such forfeitures and deductions shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

d All surplus funds appropriated by said city for the payment of salaries in the department of education. Such surplus shall be paid into said pension fund and duly credited thereto by the proper officials of said city.

e All donations, legacies, and gifts which shall be made to said fund, and all moneys which shall be obtained from other sources or by other means devised for the increase of said fund by said board of trustees or with their consent.

§ 3 The board of education of the city of Watervliet in making payrolls of the superintendent, supervisors, principals and teachers hereinbefore mentioned shall deduct from each and every payroll said one per centum from each and every amount payable in the period covered by the said payroll and shall certify the amount of said deductions and the names of the persons from whose salaries such deductions have been made; and such certificate shall accompany the payroll, and a warrant for the amount of the deductions so certified shall be drawn payable to the city chamberlain who shall retain the same, subject to the disposal of said board of trustees, as hereinafter provided.

§ 4 The chamberlain of said city shall be the custodian of said fund; and all orders made payable from this fund shall be made upon the vote of said board of trustees. Said orders to be signed by its president and countersigned by the city chamberlain.

§ 5 The board of education of the city of Watervliet shall have power, on the recommendation of said board of trustees, to retire from service to become an annuitant under this act, any superintendent, supervisor, principal or teacher

of the public schools of said city who shall have served in such capacity or capacities for an aggregate period of thirty years, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or may hereafter be located within the boundaries of said city of Watervliet, or any such superintendent, supervisor, principal or teacher who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of superintending, teaching or supervising for a period aggregating twenty years, not less than fifteen years of which shall have been in the public schools which are now or hereafter may be located within the boundaries of said city. Any superintendent, supervisor, principal or teacher in the public schools of said city who shall have served in such capacity or capacities for a period of thirty years, or who is mentally or physically incapacitated for the performance of duty and who has been engaged in the work of superintending, teaching or supervising for a period aggregating twenty years may, with the consent of such board of education, retire from service to become an annuitant under this act, provided that not less than fifteen years of such service shall have been performed in the public schools which are now or hereafter may be located within the boundaries of said city of Watervliet. Any person retired after twenty years of service but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement for thirty years of service as the total number of years of service of such person bears to thirty years.

§ 6 The said board of education of the city of Watervliet shall have power to retire from service to become an annuitant under this act any superintendent, supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of forty years, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of the city of Watervliet, and also provided that at the time of such retirement the retirement fund herein created shall be adequate to pay the full annuity to which such annuitant shall be entitled. Any such superintendent, supervisor, principal or teacher who shall have served in such capacity or capacities for an aggregate period of forty years may voluntarily retire from such service to become an annuitant under this act, provided that not less than fifteen years of such service shall have been rendered in the public schools which are now or hereafter may be located within the boundaries of the said city of Watervliet.

§ 7 Annuities paid in pursuance of this act shall be one-half of the amount of the annual salary of the annuitant at the time of retirement from service, except as provided in section five of this act, and except that no annuity shall be more than six hundred dollars, annually; but if the moneys at the disposal of the trustees of said fund be found at any time inadequate to fully carry out the provisions hereinbefore mentioned, the trustees shall then distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

§ 8 No person who shall retire or be retired to become an annuitant under this act shall be entitled to such annuity unless and until such person shall have contributed to the teachers retirement fund in pursuance of subdivision *b* of section 2 of this act, or in cash or by accumulation of the annuity to which such person would otherwise be entitled, or by either or all of such methods, an amount equal to at least twenty per centum of his or her annual salary at the time of retirement. All annuities provided for by this act shall be payable in monthly instalments.

§ 9 No annuity shall be paid from the teachers retirement fund until September 1, 1911; but any person duly qualified who shall retire or be retired from service before that time and within three years before this act shall take effect, shall not be deemed to have forfeited the right to become an annuitant under the provisions of this act.

§ 10 If at any time a superintendent, supervisor, principal or teacher shall be dismissed for cause before the time when he or she would, under the provisions of this act, be entitled to an annuity, then said person shall be paid back, without interest, all the money which may have been deducted from his or her salary in pursuance of subdivision *b* of section 2 of this act.

§ 11 The said board of trustees shall annually render to the chamberlain of the city of Watervliet a full account of the condition of the teachers retirement fund, its amount, the manner of its investment and all receipts and disbursements on account of said fund during the years, and said chamberlain shall include said statement in his annual report.

WHITE PLAINS

Chapter 356, Laws of 1915

An act to incorporate the city of White Plains

ARTICLE X

DEPARTMENT OF PUBLIC INSTRUCTION

- Section 257 City one school district
258 Department of public instruction
259 Meetings of board and appointment of president and clerk
260 Powers and duties of board of education
261 Purchases exceeding two hundred and fifty dollars
262 Superintendent of schools
263 Powers and duties of superintendent of schools
264 Appointment of teachers
265 New sites and new buildings
266 School budget
267 Preparation, revision and approval of budget
268 School funds

§ 257 **City one school district.** The territory included within the boundaries of the city of White Plains shall constitute and be one union free school district. Such school district shall be entitled to and have all the rights, powers, privileges, public moneys and other benefits conferred by law or otherwise upon schools and union free school districts and shall be subject to all the rules and regulations, inspection and superintendence applicable to schools and union free school districts, except as herein provided.

§ 258 **Department of public instruction.** 1 A department of public instruction in and for the city of White Plains is hereby established. The affairs of said department shall be under the general management and control of a board of education, composed of five members, to be called the members of the board of education and to be elected as hereinafter provided.

2 No person shall be eligible to the office of member of the board of education who has not been a resident of the city or of the territory comprised within the city for a period of at least five years immediately preceding the date of his appointment.

3 Within ten days after this act takes effect the mayor shall appoint five members of the board of education as follows: One to serve until April 1, 1916, one to serve until April 1, 1917, one to serve until April 1, 1918, one to serve until April 1, 1919, one to serve until April 1, 1920.

4 Thereafter, on or before the 31st day of March or¹ each year preceding the expiration of the term of office of a member of the board of education, the mayor shall appoint a successor to hold office for a term of five years from and including the 1st day of April in the year in which he is appointed.

¹ So in original.

5 If a vacancy occurs in the office of a member of a board of education, the mayor shall fill such vacancy by the appointment of a member for the remainder of such term.

6 Such members of the board of education shall serve without pay.

§ 259 **Meetings of board and appointment of president and clerk.** 1 Upon the appointment of said members of the board of education, the superintendent of schools shall call a meeting of the board to be held at the rooms usually occupied by the board of education by giving at least three days' written notice to each member thereof, and stating the hour at which the meeting will be held. At such meeting the board shall elect one of its members president who shall exercise all the powers usually incident to such office. Such board shall also appoint a suitable person, other than a member thereof, secretary of such board, shall determine his duties, and shall fix his compensation.

2 The annual meeting of said board shall be held on the first Tuesday in April at which time the board shall select its president and secretary for the ensuing year.

3 Said board shall also fix a time for holding regular board meetings and shall prescribe a method for calling special meetings of such board.

§ 260 **Powers and duties of board of education.** The board of education shall possess the following powers and be charged with the following duties:

1 To perform any duty imposed upon boards of education or trustees of common schools under the Education Law or other general statutes, or the regulations of The University of the State of New York or the Commissioner of Education, relating to public education so far as they may be applicable to the schools of a city of such classes and not inconsistent with the provisions of this act.

2 To appoint a qualified person other than a member thereof, superintendent of schools, and determine the salary of such superintendent.

3 To appoint from time to time, as required by law, such teachers, medical inspectors, nurses, attendance officers, janitors, and such other experts in educational work, and such other employees, as said board shall determine necessary for the efficient management of the schools, and to fix their compensation.

4 To have the care, custody and safe-keeping of all school property, real and personal, except as herein provided, and to prescribe rules and regulations for the preservation and protection of such property.

5 To provide such school apparatus, maps, globes, furniture and other equipment as may be necessary for the proper and efficient management of such schools, and also to provide free textbooks and other supplies to all the children attending the schools of such city.

6 To provide such free elementary schools, high schools, night schools, open-air schools, vocational and industrial schools, part-time or continuation schools, vacation schools, schools for the mentally and physically defective children, and schools for adults as such board shall determine necessary.

7 To provide school libraries which may be open to the public, and to establish

and equip playgrounds, athletic centers, social centers, lecture courses, and reading and recreation rooms whenever financial provision shall be made therefor by the municipal authorities.

8 To determine the general courses of study which shall be given in the schools and to approve the context of such courses before they become operative.

9 To determine and adopt the textbooks to be used in the schools, upon the recommendation of the superintendent of schools.

10 To prescribe such regulations as may be necessary for the conduct of the proceedings of said board and for the general management, control and discipline of the schools.

11 To make all ordinary repairs of buildings and grounds where no single item of such repairs exceeds two hundred and fifty dollars.

§ 261 **Purchases exceeding two hundred and fifty dollars.** All supplies or material purchased for the school system, the purchase price of which exceeds two hundred and fifty dollars, shall be made by the commissioner of public works, on the recommendation and approval of the board of education.

§ 262 **Superintendent of schools.** 1 No person who is not employed as a superintendent of schools in a city in this State at the time this law goes into effect shall be eligible to the position of superintendent of schools who is not a graduate of a college approved by The University of the State of New York, and who has not had at least five years' successful experience in teaching or in the supervision of schools.

2 The superintendent of schools shall hold office for a period of six years. Charges of incompetency, maladministration or misconduct in office may be preferred in writing against the superintendent. Thereupon the board shall proceed to hear such charges and if such charges are sustained by an affirmative vote of a majority of the board, the superintendent shall be dismissed from his office.

§ 263 **Powers and duties of superintendent of schools.** The superintendent of schools shall possess the following powers and be charged with the following duties:

1 To enforce all provisions of law and all rules and regulations relating to the management of the schools and to be the chief executive officer of the school system.

2 To prepare an outline, and the scope of the work to be included therein, for each of the courses of study authorized by the board of education, and to submit the same to such board for its approval, and, when thus approved, to see that such courses of study are used in the grades and schools for which they are authorized.

3 To recommend to the board of education suitable textbooks to be used in the various grades and subjects taught in the curriculums of the schools.

4 To transfer teachers from one school to another, or from one grade to another.

5 To have general supervision over all the teachers employed in the schools, and over all other employees of the board of education, and to report to said board violations of regulations and cases of insubordination, and to suspend a

teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for determination. In such cases the accused party shall have the right to appear before the board.

6 To have general supervision and direction over the enforcement and observance of the courses of study, and the examination and promotion of pupils.

7 To have general supervision and direction over the work of all special experts employed in the school system and over matters pertaining to playgrounds, medical inspection, athletic and social center work, libraries, and all the educational activities under the management of the board of education.

§ 264 **Appointment of teachers.** 1 The principal of each school, directors, supervisors and other educational experts, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, and shall hold their positions during good behavior and shall be removable for cause only, after a hearing, by the affirmative vote of at least a majority of the board.

2 All other teachers shall be appointed, on recommendation of the superintendent of schools, for a probationary period of not to exceed two years. At the expiration of such term, the superintendent of schools shall make a written report to the board of education recommending for regular appointment those teachers whom he has found competent and efficient. The board of education may thereupon appoint to the teaching force of the city those teachers for whom satisfactory reports are submitted by the superintendent of schools. Thereafter, such teachers shall hold their positions during good behavior and shall be removable for cause only, after a hearing, by the affirmative vote of a majority of the board.

3 No teacher shall be appointed to the teaching force of any such city who does not possess the qualifications prescribed under the Education Law and under the regulations prescribed by the Commissioner of Education for the certification of teachers employed in the schools of the cities of the State.

4 On and after January 1, 1916, the minimum annual salary of teachers employed in all elementary schools shall be six hundred and fifty dollars and in all secondary schools seven hundred and fifty dollars. The superintendent of schools shall make an annual written report to the board of education stating the names of those teachers whom he has found to be competent and to have rendered efficient service. The salary of each elementary teacher included in such report shall thereupon be increased annually in the sum of fifty dollars for each year of such employment, until the annual salary of each such teacher shall equal the sum of nine hundred dollars and the salary of each secondary teacher shall be increased annually in the sum of fifty dollars for each year of such employment until the annual salary of each such teacher shall equal the sum of twelve hundred dollars.

5 A teacher whose name is not included in the report of the superintendent of schools as doing efficient work for two successive years shall be discontinued as a member of the teaching force of the city unless a majority of the members of the board of education shall vote to retain such teacher.

6 The common council shall have authority, on the recommendation of the board of education, to increase the salaries to be paid the teachers of such city above the amount expressed in the preceding subdivision.

§ 265 **New sites and new buildings.** 1 Whenever, in the judgment of the board of education, the needs of the city require a new school building, or whenever one of the present buildings should be repaired, remodeled or enlarged, such board shall pass a resolution specifying in detail the necessities therefor, and shall estimate the amount of money necessary for such purpose, and shall forward such resolution and estimate to the mayor and the common council.

2 Whenever, in the judgment of the board of education, it is necessary to select a new site, or to enlarge a present site, or to designate a playground, or athletic center, such board shall pass a formal resolution stating the necessity therefor and describing by metes and bounds the grounds or territory desired for each of these purposes. Such resolution, when adopted, shall be forwarded to the mayor and the common council.

3 The common council shall thereupon consider such resolutions and may call for such additional information from the board of education as appears necessary. The common council may authorize the issuance of bonds to raise funds to meet the expenses to be incurred for any of such purposes. If a bond issue is authorized for such purpose, the city authorities shall issue such bonds pursuant to the provisions of law and in the form for which bonds are issued for all city purposes.

4 The plans and specifications for repairing, remodeling, or enlarging a school building, and for the construction of new school buildings shall be prepared by the engineering department of the city. The common council may, however, obtain such plans and specifications through competition or such board may authorize the employment of an architect to prepare such plans and specifications.

5 No school building shall be constructed, no grounds shall be improved or otherwise changed, and no school building shall be remodeled, repaired, or enlarged until the plans and specifications therefor are submitted to the board of education and approved by a majority vote of that body.

6 The construction, repairing and remodeling of school buildings and the construction, repairs, purchase or improvements of buildings, sites and other property authorized under the provisions of this act and the awarding of contracts therefor shall be in accordance with the provisions of law governing the construction, repairs, and improvements of public works and municipal buildings in said city.

§ 266 **School budget.** On or before the 1st day of July in each year the board of education shall prepare a budget for the ensuing calendar year, of such sums of money as it may deem necessary for the following purposes, after deducting therefrom the amount anticipated in the next apportionment of school funds from the State:

1 The salary of the superintendent of schools, of all teachers, of all professional experts, of all medical inspectors and nurses, of truant officers, of janitors,

and of all other employees of the school system, appointed or employed by the board of education.

2 All other necessary incidental and contingent expenses including the ordinary repairs of buildings, the purchase of fuel and light, supplies, textbooks, repairs and purchases of school apparatus, books, furniture and fixtures, and other articles and service necessary for the maintenance, operation, and support of the school system of the city.

§ 267 **Preparation, revision and approval of budget.** 1 The board of education shall give the mayor official notice of its meeting at which the aforesaid budget is prepared, and the mayor may attend such meeting and shall be accorded the right of inquiry into any item of such budget, and all the privileges in said meeting of the members of said board except the privilege of voting. When the board of education shall have finally determined on the statement of expenses for the items indicated in the preceding section, it shall present the same to the mayor, or the acting mayor, of the city. If the mayor, or acting mayor, approves such statement he shall sign it and immediately file it with the city clerk.

2 If the mayor disapproves the same, or any item therein, he shall within five days return such budget to the president of the board of education with his objections thereto indorsed thereon. The board shall then proceed to reconsider said budget and if five of the members of said board vote in favor of said budget it shall stand as if it had been approved by the mayor, and shall immediately be filed with the city clerk. If five of the members of said board do not vote for the adoption of such budget, it shall be modified so as to conform to the views expressed by the mayor in his objection, or the board shall present to the mayor, as in the first instance, a new budget.

3 If the mayor approves such new budget, he shall sign it and file it with the city clerk, but if the mayor does not approve any item therein he shall within three days return the same with his objections as before. The board of education shall continue to present budgets as aforesaid until the mayor's approval is obtained, or until five of the members of said board vote in favor of such budget over the mayor's objection. Such budget, when thus approved or passed, shall be filed with the city clerk. If the mayor fails to sign a statement of the budget required as herein provided, or fails to return the same with his objections thereto to the board of education within five days after its submission to him, such statement shall be filed with the city clerk in the same manner as if it had been approved.

4 When such statement is finally filed with the city clerk, the common council for said city shall include in the annual tax and assessment roll for such year the amount specified in such final statement, and the same shall be collected by the commissioner of finance, who shall credit it to the school funds of the department of public instruction.

§ 268 **School funds.** 1 Public moneys apportioned to said city, or belonging to said city and received from any source whatsoever, and all funds raised or collected by the authorities of said city for school purposes or to be used by the

board of education for any purpose authorized in this act, shall be paid to the commissioner of finance of such city, who shall keep the same separate from the general funds of the city and shall credit all such funds to the department of public instruction.

2 Such funds shall be disbursed by a vote of the board of education and upon written orders drawn on the commissioner of finance, which orders shall be signed by the superintendent of schools and the secretary of the board of education. Such orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person or corporation to whom they are payable. All purchases made under the provisions of section 261 of this act shall be paid by the board of education, after such purchases have been delivered to and accepted by such board, and when the bills therefor are submitted in itemized form and approved by the board or body authorized to make such purchase. All claims shall be audited by the commissioner of finance.

3 It shall be unlawful for the commissioner of finance of said city to permit the use of such funds for any purpose other than that for which they are authorized. The commissioner of finance shall render to the board of education a monthly statement showing the amount of funds available and the specific purposes for which they may be expended.

§ 292 **Apportionment of State and county taxes.** . . . Said board of supervisors, shall also, at their first annual session after the passage of this act, fix and determine the proportional share or amount of the floating and bonded indebtedness of the several school districts, part of which are included in said city, incurred and existing at the time of the passage of this act, to be chargeable upon the city of White Plains, and the proportional share or amount thereof chargeable to the part of each of such several school districts, not included in the boundaries of said city.

Said board of supervisors, in determining the proportion which shall be chargeable to said city and school districts not included in the boundaries of said city, shall be governed by the proportion of the assessed valuation of the property of said city and several school districts not included in the boundaries of said city, and the amount chargeable to the city of White Plains shall bear such proportion to the whole amount of such floating and bonded indebtedness as the assessed valuation of the property in said city of White Plains, formerly in such school district, bears to the aggregate amount of the assessment roll of such school districts, respectively, on the last preceding assessment roll of such school district. The portion of the indebtedness so apportioned shall become a charge for principal and interest upon the city of White Plains and the respective towns and school districts as though the same had been incurred by said city, towns and school districts separately. After the passage of this act the said city of White Plains, shall, for all purposes relating to the assessment and collection of taxes, be and constitute a separate and distinct township in said county of Westchester.

§ 295 **Collection of taxes.** This act shall in no wise apply to or affect the collection of the town, county or State, village or school taxes, the warrant for collection of which may be in the hands of the receiver of taxes of the towns of North Castle and Greenburgh, and all steps and means now provided by the statute for the collection of said taxes may at any time hereafter be taken and enforced as is now provided by statute for delinquent taxes, and when the same shall be collected they shall be disposed of in the same manner as though this act had not become a law, except as otherwise provided by this act.

§ 297 **Towns of North Castle and Greenburgh, and school districts continued.** The balance of the towns of North Castle and Greenburgh, not included within the bounds of the city of White Plains, shall be separate and distinct towns with all the rights and privileges of a town as provided by law and shall be known as the towns of North Castle and Greenburgh; and the portions of the several school districts not included in the boundaries of said city shall be separate and distinct school districts with all the rights and privileges of a school district as provided by law; all officers of said towns and school districts who shall be residents of the same as hereby altered shall continue to hold their offices for the time and in the manner prescribed by law; all officers holding office either by election or appointment, who shall cease to be residents of the towns of North Castle and Greenburgh, or of the several school districts, in consequence of the alteration of said towns and school districts hereby shall be deemed to have vacated their offices from the day when this act shall take effect, as if they had removed from the towns or school districts, except as in this act otherwise provided. All vacancies caused as above stated shall be filled by the respective town board and school districts as provided by law.

YONKERS

Chapter 452, Laws of 1908

An act to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto

ARTICLE IX

DEPARTMENT OF PUBLIC INSTRUCTION

Section 1 The title of the schoolhouses, sites, lots, furniture, books, apparatus, appurtenances, and of all other school property, connected with or constituting part of the public school system of the city shall be vested in the city of Yonkers. The city may in its corporate capacity take and hold any personal or real property transferred to it by grant, gift, devise or bequest, in trust, for the benefit of the schools of the city, or any of them, whether said property be transferred in terms to said city, by its corporate name, or by any other designation, or to any person or body for the benefit of said schools or any of them.

§ 2 The head of the department of public instruction shall be the board of education, which shall be composed of fifteen trustees, residents of the city. The term of office of each trustee shall be five years, and shall commence on the 1st day of July following his appointment. The trustees now in office shall continue to serve for the balance of the terms for which they were respectively appointed, and between the 1st and 15th days of June in each year, the mayor shall appoint by a certificate in writing filed in the office of the city clerk, three trustees to succeed the trustees whose terms of office shall expire in such year. Trustees of the board of education shall be deemed city officers.

§ 3 The annual meeting of the board shall be held on the second Tuesday of July in each year at eight o'clock in the afternoon. At such meeting, the board shall appoint by ballot from their number a president and vice president to serve for one year, and a secretary and assistant secretary, who shall not be members of the board, to serve during its pleasure.

§ 4 The board of education shall appoint as herein provided, to serve during its pleasure:

a A superintendent of public schools.

b All school principals and teachers.

c All janitors and compulsory education officers, subject to the restrictions imposed by the general laws of the State.

d Such other officers and employees as it may deem necessary for the proper discharge of its administrative duties.

§ 5 The board shall establish, control, maintain and provide for the public schools, the public school system, and the general educational interests of the

city, and manage and control the property, real and personal, which belongs to the city and is used for the purposes of education, subject only to the general statutes of the state relating to public schools and public school instruction and to the provisions of this act.

§ 6 The board shall have power:

a To establish, control and maintain kindergartens, common schools, high schools, manual training and industrial schools, including provision for special studies and social improvement, vacation schools, training schools for teachers, and truant schools; to discontinue or consolidate schools; and to supervise, maintain and equip playgrounds established by the common council.

b To change the grades of any or all schools, and to adopt and modify courses of study therefor.

c To license teachers for the schools of the city, and to fix a standard of qualifications as a necessary requirement for the service of all principals and teachers in the schools of the city, which requirement may be higher but not lower than the minimum qualifications required by the laws of the State and the provisions of this act.

d As hereinafter provided, lease or improve sites for schoolhouses; to build, purchase, lease, enlarge, improve, alter and repair schoolhouses and appurtenances; to purchase, improve, exchange and repair schools, apparatus, books, furniture and appendages; and in general to provide for all the requirements of the schools under its control.

e To fill for the unexpired term any vacancies which may occur in the offices or positions by it appointed or filled.

f To allow the children of persons not residents of the city to attend the schools under the care and control of the board, upon the payment of such tuition and upon such terms as the board may by resolution prescribe.

g To adopt rules and regulations for the proper transaction of its business; for defining the duties of its officers and employees, and for the proper execution of all powers vested in and duties imposed upon it by law.

h To fix within the proper appropriation of moneys therefor, the salary and compensation of all officers and employees appointed by it; provided, however, that nothing herein contained shall prevent said board from contracting for the services of any of its appointees for a period not exceeding one year, beginning on the 1st day of September in any year, at a definite compensation payable in equal monthly instalments. (*As amended by L. 1909, ch. 365.*)

§ 7 Under the direction of the board, the secretary shall have charge of the rooms, books, papers and documents of the board, except such as pertain to the office and duties of the superintendent. He must perform such duties as may be required of him by the board, its committees or members. He shall have the right to administer oaths and take acknowledgments, but without fee. He shall be the clerk of the board, and must keep or cause to be kept a record of the proceedings thereof. He must also keep or cause to be kept a set of records, showing the receipts and expenditures of the board. Said expenditures

must be subdivided so as to show the cost of maintaining each school separately and the supplies used therein. He must also keep or cause to be kept a series of receipts, to be signed by either the principals or janitors, certifying to all repairs and improvements made and all supplies received for the respective buildings and premises. All the books, accounts, vouchers and papers of the board must at all times be subject to the inspection of the common council and of any committee thereof. A copy of any record of the board certified by the president, secretary or assistant secretary may be used in evidence in the same manner as if the original was produced. The assistant secretary shall be vested with the powers and perform the duties of the secretary during the absence or incapacity of the secretary and shall perform such other duties as may from time to time be assigned to him by the board.

§ 8 No person shall be eligible to be appointed as superintendent, unless he is a graduate of a college or university recognized by the Regents of the State of New York, and has had at least ten years' experience as a practical educator.

§ 9 Under the direction of the board, the superintendent shall have power, and it shall be his duty to enforce the laws of the State applicable to the public schools of the city and all the rules and regulations of the board, except as herein provided. He must visit the schools of the city as often as he can consistently with his other duties, and inquire into the character of the instruction, management and discipline, and provide suitable registers, blanks, forms and regulations for making all reports and for conducting all necessary business connected with the school system, and he must cause the same, with such information and instruction as he deems conducive to the proper organization and government of the schools to be transmitted to the persons entrusted with the execution of the same. He must report to the board from time to time, as he may be required or deem necessary, a statement of the condition of the schools and all such matters relating to his office, and such plans and suggestions for the improvement of the schools and for the advancement of public instruction in the city, as he may deem expedient. He must recommend the number of teachers necessary for each of the several schools and must nominate for appointment all principals, teachers, special teachers and supervisors. He may, whenever occasion requires, and unless otherwise directed by the board, appoint supply teachers and assign them to duty, and he may temporarily transfer principals, teachers and pupils from one school to another. It shall be his duty to maintain proper discipline in the management and conduct of the schools and he may in his discretion suspend for a period not longer than till the next stated meeting of the board any pupil guilty of misconduct or insubordination, and shall report such suspension at the next stated meeting of the board. It shall be his duty to report to the board inefficiency of principals, teachers and employees. He must enforce the compulsory education law and direct compulsory education officers in the discharge of their duties. At the annual meeting of the board, he shall present an annual report, giving an account of the duties he has performed during the

year, together with such recommendations for promoting the usefulness and success of the schools as he may deem proper. The report shall show the number and names of teachers employed in the several schools of the city, the salary paid to each, the length of time each has taught in the city, the number of pupils enrolled in each of the schools, and the average attendance — which report shall be printed by the board.

§ 10 It shall be the duty of the board to prepare and transmit to the common council within ten days after the close of the fiscal year, its annual report, which shall contain correct statements of the receipts and disbursements of money during such fiscal year, in which account must be stated under appropriate heads:

a The money raised by the common council under the provisions of this act.

b The school moneys received by the city treasurer from the county treasurer or the state.

c All other moneys received by the city treasurer, subject to the order of the board, specifying the same and the sources thereof.

d The manner in which sums of money have been expended, specifying the amount paid under each head of expenditure, and whether any part of any such fund remains unexpended.

e Whether any and what claims or bills against the department, or obligations incurred by said department, remain unpaid.

f A full account of the condition of the teachers retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year. With such report shall be transmitted the annual report of the superintendent to the board of education.

§ 11 Whenever the board of education shall deem it advisable to purchase or improve land for school purposes, or to build, enlarge, improve or alter school-houses and appurtenances, or make any other improvement or extension of the school system, it shall submit to the common council and to the board of estimate and apportionment a statement setting forth such purchase, improvement or extension of the school system deemed by it advisable. If such purchase, improvement or extension shall be approved by the common council and by the board of estimate and apportionment, the board of education shall thereafter proceed with such purchase, improvement or extension, and may acquire or improve such lands or let contracts for the construction or other improvement of school buildings or property. After such approval the common council shall have power from time to time, by ordinance, which before it shall take effect shall be approved by the board of estimate and apportionment, to authorize bonds of the city to be issued and sold in the manner provided by law and the proceeds thereof applied to the payment of the cost of any such purchase, improvement or extension or to the payment of temporary loans or notes or certificates of indebtedness incurred or issued as hereinafter provided. The common council shall also have power by ordinance, which before it shall take effect shall

be approved by the board of estimate and apportionment, to authorize the comptroller to borrow from time to time in the name and on the credit of the city, moneys to the extent required to pay such cost, or to repay any moneys borrowed under this section with interest thereon when not represented by bonds, and to issue notes or certificates of indebtedness of the city, or both, payable either on demand or at a fixed time not more than six months from the date thereof and bearing interest not exceeding six per centum per annum; and to sell the same at public or private sale, or to pledge the same as collateral for temporary loans. (*As amended by L. 1909, ch. 365.*)

§ 12 Whenever the board of education shall report to the common council that it is unable to purchase real estate, rights or easements deemed necessary by it for school purposes, the common council may pass an ordinance containing a description of the real estate, rights or easements to be acquired, and declaring its intention to acquire the same, and that it deems the same necessary for municipal purposes, and directing the corporation counsel to institute condemnation proceedings for the acquirement of the same.

§ 13 Whenever the board shall intend to cause any work to be performed or to purchase any supplies, it shall be the duty of the officers or employees of the board having jurisdiction thereof to procure estimates of such work or supplies from two or more competitors whenever practicable, and report such estimate to the board for its consideration and action. The board may, in its discretion, accept any bid which is most advantageous to the city and thereupon cause a contract therefor to be executed in the name of the city by the president of the board; or it may reject any or all bids, as the interests of the city require.

§ 14 In case of emergency requiring the closing of a school building unless immediate repairs thereto are made, the board may cause repairs thereto to be made without a contract therefor, or may let a contract therefor without advertising or receiving bids, upon filing with the comptroller a certificate approved by the mayor showing such emergency and the necessity of repairs.

§ 15 The board shall be the trustee of the school library or libraries in the city, and all the provisions of the law now or hereafter passed relative to public school libraries apply to the board. It shall be vested with the same discretion as to the disposition of all moneys appropriated by any law of the State for the purchase of school libraries which is therein conferred upon the inhabitants of a school district. It shall be the duty of the board to provide for the safekeeping of the school library or libraries.

§ 16 Upon recommendation of the board of education, the sale of school-houses, lots or sites, or any other school property, may be authorized by ordinance of the common council as provided by law in relation to other sales of real property. The proceeds of such sales must be paid to the treasurer to the credit of the funds of the department of public instruction.

§ 17 The public schools shall be free to all children between the ages of 5

and 21 years residing in the city, and the evening schools shall be free to all persons over 5 years of age residing in the city. Children under 5 years of age may be admitted to the kindergarten classes of the public schools.

§ 18 The Yonkers Public School Teachers Retirement Fund Association is hereby established. The board of education shall constitute a board of trustees who shall have the general care and management of the public school teachers retirement fund created by this act. The public school teachers retirement fund shall consist of the following moneys with interest or income therefrom:

a All donations, legacies and gifts which shall be made to the said fund.

b One per centum per annum of the respective salaries paid to the superintendent of schools, supervisors, principals, teachers, registrars and janitors regularly employed in the public schools of Yonkers, and who may elect to become members of this association within one month after the passage of this act, or if not now in the employ of the city, within one month of the time of his or her appointment hereafter.

c Five per centum annually of the excise moneys to which the city of Yonkers may be entitled by virtue of the provisions of the liquor tax law of the State of New York, which sum shall be paid into said pension fund and duly credited thereto by the proper officials of the city.

d All forfeitures and deductions of or from the salary of any superintendent, supervisor, principal, teacher, registrar or janitor employed in the public schools of the city. Such forfeitures and deductions shall be paid into said retirement fund and duly credited thereto by the proper officials of the city.

The comptroller shall be the custodian of said fund and the city treasurer shall be the treasurer thereof, and all orders made payable from said fund shall be made upon the vote of said board of trustees, said orders to be signed by its president and countersigned by the comptroller and city treasurer. The comptroller shall invest for the benefit of the retirement fund all the moneys not necessary for the payment of annuities. Such investment shall be made only in securities in which the savings banks of the State of New York are authorized by law to invest. He shall report to the board annually in the month of January the condition and disposition of the fund, and the items or receipts and disbursements during the year ending on the 31st day of December preceding. The board of education in making the payrolls for October and March in each year for the superintendent, supervisors, teachers, registrars, and janitors, hereinbefore mentioned, shall deduct from the salary payable for each of such months to each of said persons who shall be members of said public school teachers retirement fund association, the sum of one-half of one per centum of his or her annual salary. The board of education shall thereupon issue a certificate to the treasurer stating the total sum so deducted and also the total amount of deductions from the salaries of any persons who are members of said association, for absence from duty during the preceding six months. Such amount shall be paid into the retirement fund and duly credited thereto by the comptroller.

§ 19 The board of education shall have power to retire from service any superintendent, principal, teacher, registrar or janitor who shall have served in such capacity or capacities for an aggregate period of twenty-five years for a female and thirty years for a male, and no person so retired shall become an annuitant under this act unless fifteen years of such service shall have been rendered in the public schools of Yonkers, and unless he or she shall have come under the provisions of this act as hereinbefore provided. Annuities paid in pursuance of this act shall be one-half of the salary of the annuitant at the time of retirement from service, except that no annuity shall exceed eight hundred dollars annually, but if the moneys in the fund and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the trustees shall then determine the pro rata amount which in their judgment each annuitant shall receive in any year, and such amount shall be deemed full payment of the annuity for that year. If at any time a superintendent, supervisor, principal, teacher, registrar, or janitor, belonging to this association shall be refused reemployment by the board of education, or shall be discharged before he or she would become an annuitant under the provisions of this act, then such person shall be entitled to receive from the treasurer, without interest, a sum equal to the total deductions from his or her salary in pursuance of this act other than the forfeitures and deductions specified in subdivision (d) of section 18 of this article.

§ 20 For the purpose of providing money for the support and maintainance¹ of the public schools in the city from the 1st day of October, 1908, to the 1st day of January, 1909, a funded debt of the city may be created and bonds of the city not exceeding in the aggregate one hundred and twenty-five thousand dollars may be issued and sold as provided in sections 60 and 61 of chapter 473 of the Laws of 1906, or in such manner as may hereafter be provided by law.

¹ So in the original.

NASSAU COUNTY¹

Chapter 407, Laws of 1910

An act to establish a public school teachers retirement fund in Nassau county

Section 1 The Nassau County Public School Teachers Retirement Fund Association is hereby created. The county judge of said county shall appoint a board of trustees consisting of five members, one or more from each of the following and who shall be residents of Nassau county: a member of a board of education; a school superintendent or principal; a school commissioner; other county official or resident, to serve one, two, three, four, five years respectively, after which one shall be appointed each year for a term of five years. A vacancy on such board shall be filled for the remainder of the unexpired term by the county judge. This board of trustees shall have the general care and management of the teachers retirement fund created by this act. Such fund shall consist of the following moneys and the income therefrom: (a) All donations, legacies and gifts which shall be made to said fund. (b) Moneys that may be appropriated pursuant to section 2 of this act. (c) One per centum per annum of the respective salaries paid to superintendents of schools, supervisors, principals and teachers regularly employed in the public schools of Nassau county, and county school commissioners if licensed teachers, and who may elect to become members of this association within six months after the passage of this act. Superintendents, supervisors, principals and teachers not so employed in said county at the time this act takes effect, but who may be employed as such thereafter, shall become members of this association. And the provisions of this act shall become a part of and enter into any such contract of employment.

§ 2 The board of supervisors of such county may provide by resolution annually for the payment into the said teachers retirement fund of a sum not exceeding the amount annually contributed to such fund as provided in section 1 of this act. Said board of supervisors shall annually provide the board of trustees of the Public School Teachers Retirement Fund Association, as created by section 1 of this act, with such supplies for the necessary correspondence and for keeping the records of the association, and with necessary postage and printing, as said board may, by resolution approve. Whenever such provision is made the board of supervisors shall assess the amount to be paid into such fund or for such supplies, postage and printing, upon the several towns and cities in the county not maintaining a separate teachers pension system ratably according to the corrected valuations of real and personal property liable to taxation in such towns

¹ The teachers of this county have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 1109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this county it has been superseded by the general law.

and cities. The amount so assessed shall be a charge upon such towns and cities and shall be paid to the county treasurer to be held by him as a part of the said teachers retirement fund. (*As amended by L. 1911, ch. 692.*)

§ 3 The treasurer of said county shall be the custodian of the funds and treasurer of the association. All orders made payable from said fund, including the cost of necessary supplies, postage and printing, shall be made upon a vote of a majority of the board of trustees, and said orders shall be signed by the president of said board and the secretary. The treasurer shall, upon direction of the board of trustees, invest for the benefit of the retirement fund, all moneys not necessary for the payment of annuities, or for supplies, postage and printing. Such investment shall be made only in securities in which the savings banks of the State of New York are authorized by law to invest. Such treasurer shall report to the board annually in the month of October the condition and disposition of the funds, and the items of receipts and disbursements during the year ending on the first of August preceding. Boards of education and school trustees, in making payrolls for November and March in each year, for superintendents, supervisors, principals and teachers hereinbefore mentioned, shall deduct from the salaries payable for each of the said months, to each of the persons named who shall be members of the association, the sum of one-half of one per centum of his or her salary. Such boards of education or school trustees shall thereupon issue a certificate to the treasurer, stating the total sum so deducted. Such amount so deducted shall be paid into the retirement fund and duly credited thereto by the treasurer. (*As amended by L. 1911, ch. 692.*)

§ 4 A board of education or school trustee shall have power to retire from service any superintendent, supervisor, principal or teacher who shall have served in the public schools, in said capacity or capacities, for a period of twenty-five years, but no person so retired shall become an annuitant under this act unless ten years of such service shall have been rendered in the public schools of Nassau county, and unless he or she shall have come under the provisions of this act as herein provided; or such superintendent, supervisor, principal or teacher may request retirement if entitled to an annuity. Annuities paid in pursuance of this act shall be one-half of the salary of the annuitant at the time of retirement from service, except that no annuity shall exceed six hundred dollars annually; but if the moneys in the fund, and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the board of trustees shall then determine the pro rata amount which in its judgment each annuitant shall receive in any year, and such amount shall be deemed full payment for the annuity for that year. If, at any time, a superintendent, supervisor, principal or teacher belonging to the association shall be refused re-employment by a board of education or school trustee, or shall be discharged before he or she would become an annuitant under the provisions of this act, then such person shall be entitled to receive from the treasurer, without interest, a sum equal to the total deductions from his or her salary in pursuance of this act. No person shall become an annuitant who has not contributed to the retirement

fund an amount equal to at least twenty per centum of his or her annual annuity ; but any such person otherwise qualified may become an annuitant by making a cash payment to the fund before receiving an annuity, of such an amount as his previous contributions may have fallen short of the required twenty per centum. A proportionate annuity may be allowed in case of disability after fifteen years' teaching service, provided six years of such service have been in Nassau county.

§ 5 The payment of annuities shall not begin until September 1, 1912.

SARATOGA COUNTY¹

Chapter 191, Laws of 1910

An act to establish a public school teachers retirement fund in Saratoga county

Section 1 The Saratoga County Public School Teachers Retirement Fund Association is hereby created. The county judge of said county shall appoint a board of trustees, consisting of five members, one or more from each of the following, and who shall be residents of Saratoga county: a member of a board of education; a school superintendent or principal; a school commissioner; other county official or resident, to serve one, two, three, four, five years respectively, after which one shall be appointed each year for a term of five years. A vacancy on such board shall be filled for the remainder of the unexpired term by the county judge. This board of trustees shall have the general care and management of the teachers retirement fund created by this act. Such fund shall consist of the following moneys and the income therefrom: (a) All donations, legacies and gifts which shall be made to said fund. (b) Moneys that may be appropriated pursuant to section 2 of this act. (c) One per centum per annum of the respective salaries paid to superintendents of schools, supervisors, principals and teachers regularly employed in the public schools of Saratoga county, and county school commissioners if licensed teachers, and who may elect to become members of this association within six months after the passage of this act. Superintendents, supervisors, principals and teachers not so employed in said county at the time this act takes effect, but who may be employed as such thereafter, shall become members of this association. And the provisions of this act shall become a part of and enter into any such contract of employment.

§ 2 The board of supervisors of such county may provide by resolution annually for the payment into said teachers retirement fund of a sum not exceeding the amount annually contributed to such fund as provided in section 1 of this act. Whenever such provision is made the board of supervisors shall assess the amount to be paid into such fund upon the several towns and cities in the county not maintaining a separate teachers pension system ratably according to the corrected valuations of real and personal property liable to taxation in such towns and cities. The amount so assessed shall be a charge upon such towns and cities and shall be paid by the proper officer to the county treasurer to be held by him as a part of the said teachers retirement fund.

§ 3 The treasurer of said county shall be the custodian of the funds and treasurer of the association. All orders made payable from said fund shall be

¹ The teachers of this county have abandoned the local retirement act and have come under the general law relating to the retirement of teachers pursuant to section 1109-b of the Education Law. The act has not been specifically repealed but by the action of the teachers of this county it has been superseded by the general law.

made upon vote of a majority of the board of trustees, and said orders shall be signed by the president of said board and the treasurer. The treasurer shall, upon direction of the board of trustees, invest for the benefit of the retirement fund all moneys not necessary for the payment of annuities. Such investment shall be made only in securities in which the savings banks of the State of New York are authorized by law to invest. Such treasurer shall report to the board annually in the month of October the condition and disposition of the funds, and the items of receipts and disbursements during the year ending on the first of August preceding. Boards of education and school trustees, in making payrolls for November and March in each year, for superintendents, supervisors, principals and teachers hereinbefore mentioned, shall deduct from the salaries payable for each of the said months, to each of the persons named who shall be members of the association, the sum of one-half of one per centum of his or her salary. Such boards of education or school trustees shall thereupon issue a certificate to the treasurer, stating the total sum so deducted. Such amount so deducted shall be paid into the retirement fund and duly credited thereto by the treasurer.

§ 4 A board of education or school trustee shall have power to retire from service any superintendent, supervisor, principal or teacher who shall have served in the public schools, in said capacity or capacities, for a period of twenty-five years, but no person so retired shall become an annuitant under this act unless ten years of such service shall have been rendered in the public schools of Saratoga county, and unless he or she shall have come under the provisions of this act as herein provided; or such superintendent, supervisor, principal or teacher may request retirement if entitled to an annuity. Annuities paid in pursuance of this act shall be one-half of the salary of the annuitant at the time of retirement from service, except that no annuity shall exceed six hundred dollars annually; but if the moneys in the fund, and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the board of trustees shall then determine the pro rata amount which in its judgment each annuitant shall receive in any year, and such amount shall be deemed full payment for the annuity for that year. If, at any time, a superintendent, supervisor, principal or teacher belonging to the association shall be refused employment by a board of education or school trustees, or shall be discharged before he or she would become an annuitant under the provisions of this act, then such person shall be entitled to receive from the treasurer, without interest, a sum equal to the total deductions from his or her salary in pursuance of this act. No person shall become an annuitant who has not contributed to the retirement fund an amount equal to at least twenty per centum of his or her annual annuity; but any such person otherwise qualified may become an annuitant by making cash payment to the fund before receiving an annuity of such an amount as his previous contributions may have fallen short of the required twenty per centum. A proportionate annuity may be allowed in case of disability after fifteen years' teaching service, provided six years of such service have been in Saratoga county.

§ 5 The payment of annuities shall not begin until September 1, 1912.

WESTCHESTER COUNTY

Chapter 431, Laws of 1909

An act to establish a public school teachers retirement fund in Westchester county

Section 1 The Westchester County Public School Teachers Retirement Fund Association is hereby created. The county judge of said county shall appoint a board of trustees, consisting of five members, one or more from each of the following, and who shall be residents of Westchester county: a member of a board of education; a city or village school superintendent or principal; a district superintendent; other county official or resident to serve one, two, three, four, five years respectively, after which one shall be appointed each year for a term of five years. A vacancy on such board shall be filled for the remainder of the unexpired term by the county judge. There shall be a president and secretary of such board to be elected annually in November, from the members of the board, by majority vote of the members of the board. The members of the board, except the secretary, shall receive no salary for their services. The secretary shall receive from the funds of the association a compensation not to exceed two hundred dollars per annum and an allowance for postage, stationery and printing, not to exceed fifty dollars annually such as shall be audited and allowed by vote of the board. The board of trustees shall have the general care and management of the teachers retirement fund created by this act. Such fund shall consist of the following moneys and the income therefrom: All donations, legacies and gifts which shall be made to such fund. Moneys which may be appropriated pursuant to section 2 of this act. One per centum per annum of the respective salaries paid to city, village and district superintendents of schools, supervisors, principals and teachers, regularly employed in the public schools of Westchester county, and the provisions of this act shall become a part of and enter into any such contract of employment. (*As amended by L. 1914, ch. 356.*)

§ 2 The board of supervisors of such county may provide by resolution annually for the payment into said teachers retirement fund of a sum not exceeding the amount annually contributed to such fund as provided in subdivision "c" of section 1 of this act. Whenever such provision is made the board of supervisors shall assess the amount to be paid into such fund upon the several towns and cities in the county not maintaining a separate teachers pension system ratably according to the corrected valuations of real and personal property liable to taxation in such towns and cities. The amount so assessed shall be a charge upon such towns and cities and shall be paid by the proper officer to the county treasurer to be held by him as a part of the teachers retirement fund. (*As amended by L. 1911, ch. 23.*)

§ 3 The treasurer of said county shall be the custodian of the fund and

treasurer of the association. All orders made payable from said fund shall be made upon vote of a majority of the board of trustees and said order shall be signed by the president and secretary of said board. The treasurer shall, upon direction of the board of trustees, invest for the benefit of the retirement fund, all moneys not necessary for the payment of annuities. Such investments shall be made only in securities in which the savings banks of the State of New York are authorized by law to invest. Such treasurer shall report to the board annually in the month of October the condition and disposition of the funds, and the items of receipt and disbursement during the year ending on the first of August preceding. Boards of education and school trustees in making payrolls for November and March in each year, for superintendent, supervisors, principals and teachers hereinbefore mentioned shall deduct from the salaries payable for each of the said months, to each of the persons named who shall be members of the association, the sum of one-half of one per centum of his or her annual salary. (*As amended by L. 1911, ch. 23; L. 1914, ch. 356.*)

§ 4 A teacher who has taught in public schools for a period of twenty-five years, at least the last ten of which period shall have been taught in the public schools of Westchester county shall, upon his retirement from actual service as such teacher, be entitled to an annuity of a sum equal to one-half of the average salary paid to such teacher for the last five years, provided that no annuity shall exceed the sum of six hundred dollars, other than that of superintendent or principal, whose annuity shall not exceed eight hundred dollars, but if the moneys in the fund and the receipts of said fund shall be found insufficient to fully carry out the provisions hereinbefore set forth, the board of trustees shall then determine the pro rata amount which in its judgment each annuitant shall receive in any year, and such amount shall be deemed full payment for the annuity for that year. A teacher who has taught in public schools for a period of fifteen years, at least the last six of which were taught in the public schools of Westchester county, who is either physically or mentally incapable of teaching, may be retired, and shall upon his retirement be entitled to an annuity of as many twenty-fifths of the full annuity for twenty-five years as said teacher has taught years. Such retirement may be made upon the request of the teacher or upon the request of a board of education in a city or union free school district. A request for retirement shall be made in writing addressed to the secretary of the Westchester county teachers retirement board, accompanied by evidence showing that the teacher named therein is entitled to retirement, and that he has complied with the provisions of this article and the rules of the board relating to the payment of annuities. The board shall pass upon all requests for retirement, and shall determine whether such requests should be granted. All determinations of the board relative to such requests and the payment of annuities to teachers shall be subject to appeal to the commissioner of education. The provisions of article 34 of the Education Law relative to appeals shall apply to appeals from such determinations. No person shall become an annuitant who has not contributed to the retirement fund an amount equal to at least fifty per centum of

his or her annuity; but any such person otherwise qualified may become an annuitant by making a cash payment to the fund before receiving an annuity, of such an amount as his previous contributions may have fallen short of the required fifty per centum. All teachers employed in the public schools of Westchester county, except in those cities in which provision is already made by statute for the retirement of public school teachers and the payment of annuities or pensions to such teachers, shall contribute to the teachers retirement fund of said county one per centum of the salaries to be paid to such teachers annually; and boards of education and trustees shall cause such one per centum to be deducted from the annual salaries of the teachers in their respective districts or cities. The district superintendent of each supervisory district shall include in his annual report to the Commissioner of Education a statement showing the amount to be deducted from the salaries of teachers in each school district under his supervision. The superintendent of schools of each city shall include in his annual report to the Commission¹ of Education a statement showing the amount to be deducted from the salaries of teachers employed in such city. The district superintendent of each supervisory district and the superintendent of each city shall file with the treasurer of the county a statement showing the amount respectively reported by them to the Commissioner of Education as being the amount required to be deducted from the salaries of teachers in their respective supervisory districts and cities. Such statement to the county treasurer shall also respectively show the aggregate amount required to be so deducted from the salaries of teachers employed in each town in such supervisory district and from the salaries of teachers employed in each city coming under the provisions of this act. The district superintendent of each supervisory district shall file with the supervisor of each town within such supervisory district at the time he files his certificate of apportionment of public school moneys a statement showing the amount required to be deducted from the salaries of the teachers employed in each school district in such town. The superintendent of each city shall file with the chamberlain or treasurer of such city a duplicate of the certificate which he is required to file with the county treasurer. When the Commissioner of Education apportions the money appropriated by the Legislature for the support of common schools to the several counties of the State, he shall cause to be determined from the official reports of district and city superintendents the amount required to be deducted from the salaries of the teachers employed in Westchester county who come under the provision of this act. The Commissioner of Education shall include in the certificate which he files with the Comptroller, showing the amount of State funds apportioned for the support of common schools to Westchester county, a statement showing the amount required to be deducted from the salaries of teachers in said county. The Comptroller shall issue his warrant to the State Treasurer directing such treasurer to pay to the treasurer of Westchester county to the credit of the teachers retirement fund of said county from the appropriation for the support of common schools an amount

¹ So in the original.

equal to the aggregate amount to be deducted from the salaries of teachers in said county. The comptroller, in issuing his warrant to the state treasurer for the payment to Westchester county of that portion of the moneys appropriated for the support of common schools and payable on or before March 1 of each year, shall deduct therefrom an amount equal to the amount required to be deducted from the salaries of teachers as shown by the certificate of the Commissioner of Education filed with the Comptroller. The county treasurer of Westchester county when paying to the supervisors of the towns of said county and to the chamberlain or treasurer of a city in said county the first half of the money apportioned annually for the support of common schools shall deduct from the amount apportioned an amount equal to the amount to be deducted from the salaries of the teachers in such town or city as shown by the certificate of the district and city superintendents filed with such treasurer. The supervisor of each town shall pay to the collector or treasurer of each school district in such town or to the teachers employed in such districts toward their salaries on the order of the trustees of such district the amount apportioned to such districts respectively less the amount required to be deducted from the salaries of the teachers in such districts as shown by the certificate of the district superintendent filed with such supervisors. The word "teachers" as employed in this act includes superintendents, supervisors, principals and teachers. (*As amended by L. 1911, ch. 23; L. 1914, ch. 356.*)

§ 5 The payment of annuities shall not begin until September 1, 1911.

§ 6 This act shall not apply to cities in said county where there is already in operation a plan for such pensions.

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